



**BOARD OF BEHAVIORAL SCIENCES**  
1625 North Market Blvd., Suite S200, Sacramento, CA 95834  
Telephone (916) 574-7830  
TDD (916) 322-1700  
Website Address: <http://www.bbs.ca.gov>



## MEETING NOTICE

### **Consumer Protection Committee June 21, 2006**

12:30 p.m. to 3:30 p.m.  
Department of Consumer Affairs  
1625 North Market Blvd., 2<sup>nd</sup> Floor  
El Dorado Conference Room  
Sacramento, CA 95834

- I. Introductions
- II. Review and Approve April 17, 2006 Consumer Protection Committee Meeting Minutes
- III. Strategic Plan Goal #3 – Promote Higher Professional Standards Through Rigorous Enforcement and Public Policy Changes - Report on Progress
  - A. Objective 3.1 -- Complete Revisions for Continuing Education Laws by December 31, 2006.
  - B. Objective 3.2 -- Establish a Standard to Measure Quality of Continuing Education by June 30, 2007.
  - C. Objective 3.3 -- Complete 12 Substantive Changes in Laws and Regulations by January 1, 2008.
  - D. Objective 3.4 – Advocate for Five Laws that Protect the Privacy of Client/Therapist Relationships by December 31, 2010.
  - E. Objective 3.5 – Provide Four Educational Opportunities for Division of Investigation (DOI) and The Office of the Attorney General (AG) Regarding the Board of Behavioral Sciences (BBS) and It's Licensees by June 30, 2008
  - F. Objective 3.6 – Reduce time in which BBS cases are investigated and processed by DOI and AG by 30% by June 30, 2010.
  - G. Objective 3.7 – Complete Annual Review of Examination Program and Report the Results at a Public Meeting.
- IV. Discuss Letter from the Association of Social Work Boards (ASWB) Inviting California Participation in the National Examination for Social Workers
- V. Propose to Amend Title 16, California Code of Regulations Sections 1887(b), Continuing Education Requirements for Marriage and Family Therapists and Licensed Clinical Social Workers, 1887.2(a), Exceptions From Continuing Education Requirements, and 1887.3(a), Continuing Education Course Requirements

- VI. Discuss and Compare Exempt Settings Across the Practice Acts
- VII. Review Appeals Process for Continuing Education Provider Application Denials and Provider Revocations
- VIII. Review Enforcement Program Statistics
- IX. Review Expert Witness Selection Criteria
- X. Review and Discuss Prior Recommendation to the Board to Sponsor Legislation to Add Violations of the Health and Safety Code to the Definition of Unprofessional Conduct
- XI. Discuss Future Agenda Topics

#### Adjournment

Public Comment on items of discussion will be taken during each item. The Chairperson will determine time limitations. Items will be considered in the order listed. Times are approximate and subject to change. Action may be taken on any item listed on the Agenda. THIS AGENDA AS WELL AS BOARD MEETING MINUTES CAN BE FOUND ON THE BOARD OF BEHAVIORAL SCIENCES WEBSITE AT [www.bbs.ca.gov](http://www.bbs.ca.gov)

**NOTICE:** The meeting facilities are accessible to persons with disabilities. Please make requests for accommodations to the attention of Christina Kitamura at the Board of Behavioral Sciences, 1625 North Market Blvd., Suite S200, Sacramento, CA 95834, Telephone (916) 574-7835 no later than one week prior to the meeting. If you have any questions please contact the Board at (916) 574-7830.

**State of California  
Board of Behavioral Sciences**

**M e m o r a n d u m**

**To:** Consumer Protection Committee

**Date:** June 12, 2006

**From:** Mona C. Maggio  
Assistant Executive Officer

**Telephone:** (916) 574-7841

**Subject: Agenda Item I - Introduction**

---

The Consumer Protection Committee was formed as part of a reorganization of the Board's committees. Each of the Board committees now has express responsibility for overseeing specific goals in the strategic plan recently adopted by the board as well as a general jurisdiction.

This Committee is responsible for Goal #3 in the Strategic Plan – Promote Higher Professional Standards Through Rigorous Enforcement and Public Policy Changes – Report on Progress

Committee Chair, Howard Stein will introduce Consumer Protection Committee Members and ask audience members to introduce themselves.

**Consumer Protection Committee**

*Chair* - Howard Stein  
Judi Johnson  
Bob Gerst

**State of California  
Board of Behavioral Sciences**

**M e m o r a n d u m**

**To:** Consumer Protection Committee

**Date:** June 4, 2006

**From:** Mona C. Maggio  
Assistant Executive Officer

**Telephone:** (916) 574-7841

**Subject: Agenda Item II - Review and Approve April 17, 2006 Consumer Protection  
Committee Meeting Minutes**

---

The Committee is asked to approve the minutes of the April 17, 2006 Consumer Protection Committee Meeting. (Attachment A)

# ATTACHMENT A



**BOARD OF BEHAVIORAL SCIENCES**  
 1625 North Market Blvd., Suite S200, Sacramento, CA 95834  
 Telephone (916) 574-7830  
 TDD (916) 322-1700  
 Website Address: <http://www.bbs.ca.gov>



**Draft**

Meeting Minutes  
 Consumer Protection Committee  
 April 17, 2006

Radisson Hotel  
 6225 W. Century Boulevard  
 Los Angeles, CA 90045

**I. Introductions**

The meeting was called to order at 9:00 a.m., Mona Maggio called roll and a quorum was established.

Committee Members Present:

Howard Stein, Chair  
 Robert Gerst  
 Judy Johnson

Staff present:

Paul Riches, Executive Officer  
 Mona Maggio, Assistant Executive Officer  
 George Ritter, Legal Counsel

**II. Review and Approve January 17, 2006 Consumer Protection Committee Meeting Minutes**

*Howard Stein moved and Robert Gerst seconded, for the Committee to accept the minutes of the January 17, 2006 Committee Meeting. Acceptance was unanimous.*

**III. Strategic Plan Goal #3 – Promote Higher Professional Standards Through Rigorous Enforcement and Public Policy Changes - Report on Progress**

The Committee discussed the following objectives:

- A. Objective 3.1 -- Complete Draft Revisions for Continuing Education Laws by December 31, 2006.

Mr. Gerst questioned if the target date for this strategic plan objective was achievable. Paul Riches responded that the objective was for Board completion not enactment.

- B. Objective 3.6 – Reduce time in which BBS cases are investigated and processed by DOI and AG by 30% by June 30, 2010.

Mr. Stein queried the progress of the Division of Investigation's (DOI) recruitment of investigators. Ms. Maggio reported that she met with Bill Holland, Deputy Chief of DOI in early April to discuss investigator caseload and processing times. Mr. Holland reported that four new investigators would be on board by mid April 2006; however, four investigators are leaving due to retirement. Mr. Holland suggested the Board consider utilizing subject matter

experts (SMEs) to assist staff in the complaint handling process. Many health care boards use Enforcement staff to obtain documents to support the complaint and SMEs for the report writing. These boards utilize DO I for criminal matters; when documents must be retrieved via subpoena; and for interviewing witnesses.

Judy Johnson asked what the requirements are to serve as a SME for the Board. Mr. Riches provided a synopsis of the criteria used for selecting SMEs. He added that staff is currently developing a training program for SMEs. The training will be held in the Fall 2006. Ms. Johnson asked that the SME selection criteria be included for review at a future meeting.

**C. Objective 3.7 – Complete Annual Review of Examination Program and Report the Results at a Public Meeting**

Mr. Stein queried the frequency and number of exam complaints. Mr. Riches responded that the Board receives a small number of complaints and most are regarding the exam vendor or testing environment not the Board.

Mr. Stein thanked staff for the thorough report.

**IV. Discuss the Definition of What Constitutes Online Continuing Education**

Mr. Riches stated that Title 16, California Code of Regulations (CCR) Sections 1887.3 and 1887.2 require MFTs and LCSWs to complete 36 hours of Continuing Education (CE) to renew their license. (18 hours is required for a first-time renewal). The Board's current policy permits licensees to meet the CE requirement in three ways:

Conventional – defined as a course, convention, or seminar where physical attendance is required.

Self-study (home-study) –defined in California Code of Regulations (CCR) Section 1887(b). A “self-study course” means a form of systematic learning performed at a licensee’s residence, office, or other private location including, but not limited to, listening to audiotapes or participating in self-assessment testing (open-book tests that are completed by the [licensee], submitted to the provider, graded, and returned to the [licensee] with correct answers and an explanation of why the answer chosen by the provider was the correct answer. (Amended February 1, 2003)

Online – defined as a course taken on a computer, or any home study course where a participant can fax or email his or her post test back to the provider.

Mr. Riches added that though licensees are permitted to take an unlimited amount of continuing education by conventional or online means they are limited to obtaining only one-third of the total CE hours required by “self-study”. The Board defines the difference between “self-study” and “electronic” CE courses as the method by which the post-test is given. If the post-test is submitted to the provider electronically, including submission by fax, the Board considers that the licensee has completed CE online.

Mr. Gerst questioned how the Board measures what a licensee has learned by “the conventional method” when a post-test is not required. Licensees register for class and are given credit for just their attendance.

Mr. Janlee Wong, representing the National Association of Social Workers (NASW) advocated for the Board to open continuing education policies and not specify the means of learning. The Board should not limit how people learn.

Mary Riemersma, representing the California Association of Marriage and Family Therapists (CAMFT) thinks the Board's current "policy" is at odds with existing regulation and intent of online continuing education. Ms. Riemersma believes ultimately it should be the decision of the individual of how to obtain the CE.

After discussion, it was the consensus of the Committee that the Board should consider expanding CCR Section 1887(b) to include all acceptable methods for obtaining continuing education and not limit the amount of CE credits (hours) that can be obtained by any one method. Any delivery mechanism in any quantity should be acceptable.

The Committee directed staff to bring back a proposal amending CCR section 1887(b) as discussed.

**V. Update on Supervision Survey for Marriage and Family Therapists Interns (IMF) and Associate Clinical Social Workers (ASW)**

Mr. Riches reported as of February 27, 2006 - 687 IMF surveys were mailed, and 304 received with a response rate of 44% and for ASW 615 surveys were mailed, and 226 received with a response rate of 37%. Overall, candidates rate their supervision experience and quality of supervision as good, therefore there is no action to recommend on this matter.

**VI. Discussion and Possible Action on Proposal to Allow Supervision of MFT Interns and ASW Registrants Via Video Conferencing**

Ms. Maggio stated that the Committee considered this issue at its January 2006 meeting and directed staff to bring back a specific proposal for limited use of video conferencing for remote locations, and specialty access for ASWs and IMFs.

Staff prepared some initial draft language for the Committee's review and consideration which would permit an IMF or ASW to obtain up to maximum of 12 hours of direct supervision via videoconferencing, when a hardship exists in obtaining supervision at the setting. The supervisor would be required to certify that a hardship existed, and the applicant would retain that certification for submission with his or her licensure application.

Draft Language:

**MFT**

(a) An intern working in a governmental entity, a school, college or university, or an institution both nonprofit and charitable may obtain up to 12 hours of the required weekly direct supervisor contact via two-way, real time videoconferencing when a demonstrated hardship exists in obtaining supervision at the setting when required.

(b) The supervisor must provide the intern with a signed letter of self-certification which demonstrates that such circumstances existed. The intern shall provide this letter to the Board with his or her application for licensure.

**LCSW:**

(a) An associate clinical social worker working in a governmental entity, a school, college or university, or an institution both nonprofit and charitable may obtain up to 12 hours of the required weekly direct supervisor contact via two-way, real time videoconferencing when a demonstrated hardship exists in obtaining supervision at the setting when required.

(b) The supervisor must provide the associate with a signed letter of self-certification which demonstrates that such circumstances existed. The associate shall provide this letter to the Board with his or her application for licensure.



Ms. Riemersma inquired as to how staff arrived at 12 hours when at the January 2006 meeting it was discussed that 10% of the weekly supervision could be obtained by video conferencing. Ten percent would be 30 hours.

Mr. Riches responded that the licensing evaluators need to be able to evaluate units/hours and staff came up with 12 hours.

Mr. Wong agreed that if the purpose of video conferencing is to assist candidates working in a rural setting then 10% is a very small amount hours for credit. Why not 50%? Participants in distance learning programs can earn up to 75% of credit but must have 25% by face to face.

Mr. Gerst questioned whether we have established the professionalism of the practice of video supervision. He also raised the question of why limit this method of supervision just for those in rural settings.

Mr. Wong expressed his concerns of ensuring the client's privacy and ensuring a secure connection.

Carla Cross, Art Therapist stated she supervises art therapist trainees by video conferencing and has not encountered any problems.

Judy Johnson added that the Board should embrace technology but should also take time to develop guidelines and research the issues of privacy and security to protect the client.

Ms. Riemersma commented that the employer should be responsible for ensuring privacy and security even in off-site settings.

Mr. Gerst restated the need to assure confidentiality.

After discussion, and hearing audience comments, it was the consensus of the Committee to eliminate the hardship requirement from the proposed draft language.

Mr. Riches inquired if we should consider a formal pilot project in concert with a third party to oversee project and produce study result. The Committee directed staff to conduct further research on this issue and report back at a future meeting.

## **VII. Review and Discuss the Scope of Unprofessional Conduct Statutes and Regulations**

Ms. Maggio stated that at the January 2006 meeting the Committee discussed the Board's complaint handling process and the various violations defined as unprofessional conduct in Business and Professions Code (BPC) Section 4982, (Marriage and Family Therapists [MFT]); BPC section 4998.1 (Licensed Clinical Social Worker [LCSW]); and BPC section 4986.70, (Licensed Educational Psychologist [LEP]). Additionally, Mr. Wong and Ms. Riemersma advised the Committee of the internal processes used by the associations when a complaint is filed against one of its members.

For the purpose of further discussion and possible consideration for expanding the definition of unprofessional conduct, staff provided a comparison of the Board's unprofessional conduct statutes, a copy of NASW's and CAMFT's Rules of Professional Conduct, and the types of reoccurring complaints where the Board does not have jurisdiction to take action.

Ms. Maggio reported that the Board receives numerous complaints regarding licensees who decline to provide client records pursuant to Health and Safety Code section 123110. Although the Enforcement Analysts contact the licensees in an attempt to assist clients in obtaining treatment records, we have no recourse for noncompliance because the Board does not have a provision in law to require licensees to provide the records. If the Enforcement Analyst is

unable to mediate the situation, then complainants are referred to the court or their legal counsel for possible assistance. This results in extensive costs for the clients.

Mr. Gerst queried whether there are elements in the NASW and/or CAMFT Codes of Ethics that should be incorporated in Board's laws as unprofessional conduct.

Ms. Riemersma cited major differences in defining unacceptable dual relationships and establishing best practices.

Mr. Wong stated that the range of practice of social work is too broad to codify a Code of Ethics.

Ms. Riemersma stated that in expanding the definition of unprofessional conduct to include a violation of Health and Safety Code section 123110, the Board should preserve the discretion of the therapist to provide a summary or to decline to provide if determined to be not in the interests of the patient.

The Committee recommended that the Board sponsor legislation to add violations of Health and Safety Code Section 123110, which requires healthcare providers to provide patient records upon request, to the definition of unprofessional conduct Business and Professions Code sections 4982 (MFT), 4986.70 (LEP) and 4992.3 (LCSW).

#### **VIII. Review Enforcement Program**

The Committee reviewed the statistical information provided by the Enforcement Unit.

Mr. Gerst requested that cost recovery data be broken down to exclude costs for surrender and revocation cases where it is unlikely the Board will recover costs.

#### **IX. Review Enforcement Authority Available to the Board for Urgent/Emergent Cases**

Ms. Maggio noted that in fiscal years 2000/01 through 2003/04 it took an average of 209 days from the date formal charges were filed (Accusation) to reach final disposition of a disciplinary action. However, complaints alleging psychological or physical impairment require immediate action, as do high profile arrests. In cases in which the licensee poses significant harm to self or others and necessitates a more timely suspension of the license, the Board's Enforcement Unit has utilized two resources, Interim Suspension Orders (ISO) and Penal Code Section 23 Orders (PC 23).

Ms. Maggio stated that Interim Suspension Orders have been used in those cases in which the licensee is subject to discipline pursuant to sections 820 and 822 of the Business and Professions Code, by reason of a physical and/or mental illness affecting the licensee's competency to practice. In the past five fiscal years the Board has issued Interim Suspension Orders in two cases. The respondents in both cases voluntarily surrendered their licenses.

Ms. Maggio stated that a PC 23 is used in those cases in which the licensee has been arrested for an egregious crime substantially related to the license and in the interest of justice and protection of the public the licensee or registrant must be immediately prohibited from practicing. PC 23 orders have been issued in seven cases in the last five fiscal years. The charges or convictions included lewd and lascivious acts upon four minor boys, voluntary manslaughter, stalking, and sexual battery by restraint. Two cases are currently pending, an associate clinical social worker convicted of a lewd act upon a child, and a marriage and family therapist convicted of 51 felony charges including committing lewd acts upon a child, aggravated sexual assault of a child and posing a minor for pictures involving sexual conduct. The closed cases resulted in revocation.

Ms. Maggio reported that the Enforcement Unit has not had an occasion to seek a temporary restraining order (TRO) injunction; however, if a case presents itself where a TRO is necessary, the Board would seek this procedural device.

**X. Discuss Agenda Topics for Future Committee Meetings**

There were no suggestions for future agenda items.

The meeting adjourned at 11:30 a.m.

**State of California  
Board of Behavioral Sciences**

**M e m o r a n d u m**

**To:** Consumer Protection Committee

**Date:** June 10, 2006

**From:** Mona C. Maggio  
Assistant Executive Officer

**Telephone:** (916) 574-7841

**Subject: Agenda Item III - Strategic Plan Goal #3 – Promote Higher Professional Standards Through Rigorous Enforcement and Public Policy Changes – Report on Progress**

---

Goal #3 – Promote higher professional standards through rigorous enforcement and public policy changes.

**Objective 3.1 -- Complete Revisions for Continuing Education Laws by December 31, 2006.**

Background

The Board's strategic plan identifies the need to "Complete Revisions for Continuing Education Laws by December 31, 2006."

Update

The Board approved regulations that would allow the issuance of citations and fines to continuing education (CE) providers.

Staff is waiting to proceed with this regulation until the proposed regulation to Title 16, California Code of Regulations (CCR) section 1886.40, Citations and Fines to increase maximum fine to \$5,000 for specified violations is complete.

The proposed amendment to section 1886.40, has been approved by the Department of Consumer Affairs (DCA) and is pending approval from the Department of Finance (DOF) before being filed with the Office of Administrative Law (OAL) for final approval.

Senior staff will meet on July 7, 2006 to begin a thorough review of the Continuing Education statutes and regulations and determine if revisions should be made. It is the goal of staff assigned to this project that any recommendations will be brought to the Committee at the September 20, 2006 meeting.

In an effort to ensure that licensees are knowledgeable about the CE requirements, staff had drafted an informational bulletin that will be mailed to all Marriage and Family Therapist and Licensed Clinical Social Worker licensees explaining the continuing education requirements including the mandatory education requirements. This

bulletin will be mailed on July 1, 2006. Additionally, staff has made revisions to the license renewal application to clarify the requirements for renewal and the declaration that licensees sign.

Board staff will continue to monitor changes regarding the continuing education law and will bring any issues to the attention of the Policy and Advocacy Committee.

**Objective 3.2 --**

**Establish a Standard to Measure Quality of Continuing Education by June 30, 2007.**

Background

The Board's strategic plan identifies the need to ensure high professional standards for Marriage and Family Therapists (MFT) and Licensed Clinical Social Workers (LCSW). In an effort to meet this objective, the board must develop a way to measure the quality of continuing education (CE) courses and thereby establish a minimum standard that all CE courses must meet to be or continue to be approved as a Board of Behavioral Sciences (BBS) approved provider.

Update

Staff has identified the basic tasks to begin researching this objective. Staff is completing the analysis of the data collection from other six identified entities (BAR Association, California Association of Marriage and Family Therapists (CAMFT), California Society for Clinical Social Work (CSCSW), National Association of Social Workers (NASW), UC Davis Continuing Medical Education, American Association of State Social Work Boards (AASWB) and DCA boards and bureaus). Team members will meet to determine methodologies to measure to the quality of CE courses and minimum uniform standards.

**Objective 3.3 --**

**Complete 12 Substantive Changes in Laws and Regulations by January 1, 2008.**

Background

The Board's strategic plan identifies the need to "Complete 12 substantive changes in laws and regulations by January 1, 2008."

Update

The Board has recently approved a number of substantive changes to the Licensed Educational Psychologist law, including:

- Continuing education
- Scope of practice
- Licensing requirements
- Unprofessional conduct

An author has been found to introduce these changes in legislation. We expect the bill to be introduced in early 2006 and if passed, to take effect January 1, 2007.

The Board has also approved several substantive regulatory changes, currently in process and expected to be complete by mid-2006:

- Citation and fine – Increase maximum fine to \$5,000 for specified violations – pending approval with DOF.
- Citation and fine of continuing education providers – this issue is currently on hold. Staff will revisit this item after the revision to CCR section 1886.40, becomes effective.
- Delegation to Executive Officer ability to compel psychiatric evaluation. CCR section 1803 is pending a regulation hearing scheduled during the Board's meeting on July 27, 2006.
- Supervisors Qualifications – CCR sections 1833.3 and 1870. Supervisors of registrants are currently required to have practiced psychotherapy for two out of the five years preceding any supervision. This proposal would allow supervisors to count time spent directly supervising persons who perform psychotherapy toward this requirement. The Policy and Advocacy Committee voted to recommend language to the Board. The Board reviewed the proposal at its May 18, 2006 meeting and sent it back to the Committee for further work.

#### **Objective 3.4 --**

#### **Advocate for Five Laws that Protect the Privacy of Client/Therapist Relationships by December 31, 2010.**

##### Background

The Board's strategic plan identifies the need to "Advocate for five laws that protects the privacy of client/therapist relationships by December 2010."

##### Update

The Board has taken a position of support on Assembly Bill 3013 (Koretz). This bill would strengthen patient confidentiality laws by conforming California law to provisions of the Health Insurance Portability and Accountability Act (HIPAA) which limit the release of patient information, provide the patient the opportunity to prohibit such a release, and permit the health care provider to make judgments regarding releases in emergency situations.

Board staff will monitor legislation and identify any that has the potential to protect the privacy of client/therapist relationships beginning with the 2006 legislative season. Any such legislation will be analyzed and brought before the Policy and Advocacy Committee who will make a recommendation to the Board whether to support the bill and when needed, suggest amendments.

**Objective 3.5 --**

**Provide Four Educational Opportunities for Division of Investigation (DOI) and The Office of the Attorney General (AG) Regarding the Board of Behavioral Sciences (BBS) and It's Licensees by June 30, 2008.**

Background

Team members identified the educational opportunities as training for DOI investigators and the Deputy Attorneys General regarding the Board's scope of authority, licensee scope of practice and the necessary requirements to conduct investigations and prosecute cases. The training will be conducted by the Executive Officer, representatives from the Department of Justice and the Board's Enforcement Unit.

Current Status:

Team members have received training material samples from other boards to assist in developing the training program for DOI investigators and the Deputy Attorneys General.

**Objective 3.6 --**

**Reduce time in which BBS cases are investigated and processed by DOI and AG by 30% by June 30, 2010.**

Background

Cases sent to DOI for formal investigation take an average of 9 months to one year for completion. The Administrative Hearing process averages another year for a proposed decision to be rendered and come before the Board. It is the goal of this objective to shorten the processing time for investigation and prosecution of cases to meet the Board's mandate to protect the public health, safety and welfare.

Status

Staff has contacted Bill Holland, DOI Deputy Chief to schedule a meeting to discuss the current status of filling the investigator vacancies with the Division and timelines for completing investigations.

**Objective 3.7 --**

**Complete Annual Review of Examination Program and report the Results at a Public Meeting.**

Background/Status

[Staff has identified this objective as being met.](#)

- Staff met with the Office of Examination Resources (OER) on January 10, 2006 to discuss the Board's current examination program, pass rates, examination development workshops and the examination vendor Thompson/Prometric.
- On January 27, 2006, Tracy Montez PhD, Chief of OER and Linda Hooper, PhD, Personnel Selection Specialist at OER facilitated a discussion and overview of the Board's licensing examinations for MFTs, LCSWs and LEPs during a Closed Session Board Meeting.
- On February 16, 2006 Ms. Hooper facilitated a presentation on and discussion of Board's Licensing Examination Program for the public.

**State of California  
Board of Behavioral Sciences**

**M e m o r a n d u m**

**To:** Consumer Protection Committee

**Date:** June 12, 2006

**From:** Mona C. Maggio  
Assistant Executive Officer

**Telephone:** (916) 574-7841

**Subject: Agenda Item IV – Discuss Letter from the Association of Social Work boards (ASWB) Inviting California Participation in the National Examination for Social Workers**

---

In February 2004, the Board received a letter from Roger A. Kryzanek, MSW, LCSW and President of the Association of Social Work Boards (ASWB) (formerly known as the American Association of State Social Work Boards). The purpose of Mr. Kryzanek's letter is to ask the Board of Behavioral Sciences (Board) to consider rejoining ASWB and administer the national examination.

Currently, ASWB is comprised of social work regulatory boards in 49 states, the District of Columbia, the Virgin Islands, and seven Canadian provinces. Presently, California is the only state that is not a member of AWSB and not participating in its examination program.

Background

The Board was a member of ASWB from October 1991 through March 1999. However, around 1998, the Board and the Department of Consumer Affairs, Office of Examination Resources (OER) began having concerns regarding the national examination. These concerns included: 1) the job analysis survey conducted by ASWB did not include a representative number of licensees in California [only 16 participants]; 2) the sampling of participants did not include the demographics that represented California's population; and 3) the pass rate for California candidates first exam participants was too high at a 89% pass rate.

Based on these concerns, and completion of a new occupational analysis, the Board determined that there was a need for a new state constructed written examination. The California written examination was administered beginning in late Spring 1999.

Issues for Consideration

1. Membership in ASWB would give California a voice and vote in setting national standards for clinical social work on the national level.
2. Participation in the examination process may improve the portability for licensees – open the barriers to reciprocity with other states.
3. The Board would need to determine if the current national examination meets the standards of examination development and examination administration currently used by the Board and OER. This would require an in-depth comparison and analysis of the two examinations.
4. Should the Board invite Mr. Kryzanek to the July 27-28, 2006 Board meeting to discuss the invitation to rejoin ASWB?

Attachments

- A. Letter from Roger A. Kryzanek
- B. February 4, 1999 Board Meeting Minutes



# ATTACHMENT A



BOARD OF  
BEHAVIORAL SCIENCES

2006 FEB 24 AM 11:02

February 17, 2006

**Board of Directors**

*President*

Roger Kryzanek, LCSW  
Oregon

*Past President*

Delfino Trujillo, MSW, LISW  
New Mexico

*Secretary*

Ginny Dickman, LSW  
Idaho

*Treasurer*

Jonathan D. Finck, LCSW  
Missouri

*Directors at Large*

Charlotte McConnell, LICSW, MSW  
Washington, D.C.

Saundra Starks, Ed.D., LCSW  
Kentucky

Suzan D. Turley  
Oregon

*Executive Director*

Donna DeAngelis, LICSW, ACSW

Mr. Paul Riches, Executive Officer  
California Board of Behavioral Sciences  
1625 North Market Boulevard, Suite S-200  
Sacramento, California 95834

Dear Mr. Riches:

I am the President of the Association of Social Work Boards (ASWB) a nonprofit organization made up of social work regulatory boards in 49 states, the District of Columbia, the Virgin Islands, and seven Canadian provinces. At the present time California is the only state that is not a member of ASWB and not using our examination program. I am writing to ask that the California Board of Behavioral Sciences consider rejoining ASWB.

The California Board of Behavioral Sciences was a valued member of ASWB from 1991 through March, 1999, and provided a number of social workers who were involved with the examination program and other committees. It is my hope that, once again, all 50 states can stand together to ensure that the regulated practice of social work is based on sound national standards and that all involved in regulation can share information, learn from one another, and promote best practices within the regulatory arena.

The mission of the Association of Social Work Boards is to support social work licensing boards and promote regulation of social workers according to uniform standards in order to protect the public. ASWB develops and administers the licensing examinations used by the jurisdictions to determine whether a social work applicant for licensure has the minimum competence necessary to practice. The examination program is one of the most important services provided to regulatory boards by ASWB. There are five categories of examination: Associate for those who do not hold a formal social work degree; Bachelors for social workers with a baccalaureate degree; Masters for those with Masters of Social Work (MSW) degrees upon graduation; Advanced Generalist for MSWs with two or more years of general social work experience; and Clinical for MSWs with two or more years of clinical social work experience. Last year, ASWB tested over 25,000 candidates for social work licensure.

The ASWB licensing examinations are constructed according to the guidelines of the American Psychological Association, the Joint Commission on Standards for Educational and Psychological Testing, the American Educational Research Association, the National Council on Measurement in Education, and the Equal



Mr. Paul Riches, Executive Officer  
February 17, 2006  
Page Two

Employment Opportunity Commission, with psychometric guidance from ACT, a national testing company. First, the examination questions are based on knowledge statements developed through a nationwide practice analysis survey in which social workers were asked to identify and rank the tasks they must know how to perform on the first day of their job. The data from this survey are analyzed by social work subject matter experts, who then construct the content outline. The survey sample and respondents statistically reflect the make-up of the profession, as does the composition of the group of subject matter experts who analyze the data. The most recent survey was conducted in 2001 – 2003. The examinations that began being administered on May 17, 2004 contain test content that was determined by the results from the survey information.

The final return rate for the usable surveys delivered in this most recent practice analysis was 42 percent overall, with a return rate of 40 percent of responses specifically for the Clinical examination. California social workers were included in this practice analysis. There were 442 surveys distributed to social workers in California, of which the return was 75 surveys, 17 percent of those sent in California and 2.1 percent of the total responses.

Social workers are trained every year to be item writers, and they are the people who develop the specific examination questions. The items that are written are reviewed by Item Development Consultants who either return them to the writer for changes, or approve them to go on to the Examination Committee for review.

The ASWB Examination Committee has 16 members from social work practice and education who are also diverse by race, ethnicity, culture, gender, and geography. This committee reviews every new item and must reach consensus on each item before it is pretested on the social work examinations. The committee specifically looks for only one correct answer for each item. If the committee cannot come to consensus, the question is either discarded or changed.

Items are pretested before they can be used as scored items. When an item is being pretested, it means that the item appears on the examination, but does not count toward the passing score. An item is approved for use as a scored item only if its statistical performance is acceptable. That means that statistically it performs a valid measure of the test taker's knowledge in a particular content area. The system of pretesting questions protects examination candidates by using only questions that have been proven effective in testing relevant knowledge. The answers to pretest items are never counted toward an examinee's score.

There are several versions of each ASWB examination category given at the same time. The members of the Examination Committee review all the items again on each version of the examination before it goes on-line to the test centers to be administered. The questions on each of these versions are different, but the content that is being tested is the same. Candidates are given a different version of the examination if they must retest.



Mr. Paul Riches, Executive Officer  
February 17, 2006  
Page Three

You can see from the work and care that goes into developing, monitoring, and maintaining the ASWB examination program, that we do not take this responsibility lightly. We perform our duties with adherence to social work ethics and psychometric standards. In 2000, ASWB had an independent psychometric evaluation of its examinations. The results of that evaluation were that the ASWB examinations are valid, reliable, and defensible.

The ASWB examinations are delivered electronically at 230 ACT test centers nationwide, with nine test centers located within California and ACT plans to expand the number of test centers there.

The examinations contain 150 questions that count toward the score and 20 pretest questions. They are given by computer over a four hour period. Prior to the examination, candidates are given the opportunity to learn how the test functions on the computer and practice making responses. There is also a satisfaction survey given at the end of the examination.

In addition to providing valid and defensible social work licensing examinations, ASWB provides its members with relevant, timely information and publications about professional regulation, as well as services such as continuing education meetings and new board member training. Each year ASWB has two meetings, a spring educational meeting and a fall business meeting of the Delegate Assembly, the governing body of the association. There is no charge to members or invited guests to attend these meetings. ASWB pays travel and lodging expenses for one delegate from each member jurisdiction to attend the fall business meeting. Members and staff of social work regulatory boards that are not ASWB members may attend without charge, but no travel or lodging expenses will be paid. Attendees at the spring educational meeting must pay for their own transportation, lodging, and some meals. The association usually provides a continental breakfast each day, and lunch on the full day of the meeting.

The 2006 Spring Education Meeting will be held in Portland, Oregon, April 27 – 30. The Annual Meeting is scheduled for Baltimore, Maryland, November 10 – 12.

Three new board member training sessions are held each year for members who have been recently appointed to their boards. As a service to our member boards, the association pays for one member from each jurisdiction to attend, on a space-available basis. We usually accommodate 15 to 20 trainees.


Through the ASWB publications, as well as these meetings, members are afforded the opportunity to learn about legal regulation of the profession, and to network with others involved with regulatory boards. Most of our members rate networking as the most important benefit of association membership. There is growing electronic communication among members to keep the networking going. We have a board administrators listserv and a listserv for board members.

Dues paid to the association are based on the number of licensees in the jurisdiction. The maximum amount of annual dues charged is \$2,000.00 for 10,001 or more licensees.

Mr. Paul Riches, Executive Officer  
February 17, 2006  
Page four

As you can see I feel that we have much to offer any jurisdiction who chooses to be one of our members. I also believe that our association has much to gain from having California once again become one of our members. I hope that you and the board members will favorably consider rejoining ASWB. Please let me know if you have any questions or need more information. More information can also be found on our website, [www.aswb.org](http://www.aswb.org). I live in Bend, Oregon, which is not that far away. If you so desire, I would be pleased to come to Sacramento to talk with you and the members of the California Board of Behavioral Science Examiners. Thanks for you time and I will look forward to hearing from you.

Sincerely

A handwritten signature in dark ink, appearing to read "Roger Kryzanek". The signature is fluid and cursive, with the first name "Roger" being more prominent than the last name "Kryzanek".

Roger Kryzanek, LCSW  
President

cc: Ms. Charlene Zettel, Director  
California Department of Consumer Affairs

# ATTACHMENT B





**BOARD OF BEHAVIORAL SCIENCES**  
400 R STREET, SUITE 3150, SACRAMENTO, CA 95814  
TELEPHONE: (916) 445-4933 TDD: (916) 322-1700  
WEBSITE ADDRESS: <http://www.bbs.ca.gov>



(approved June 4, 1999)

**BOARD OF BEHAVIORAL SCIENCES  
EXAMINATION COMMITTEE  
MEETING MINUTES**

**FEBRUARY 4, 1999**

**UNIVERSITY OF CALIFORNIA LOS ANGELES  
BRADLEY HALL  
LOS ANGELES, CA**

**MEMBERS PRESENT**

Marsena Buck, LCSW Member, Committee Chair  
Selma Fields, MFCC Member  
Lorie Rice, Public Member  
Christina Chen, Public Member

**MEMBERS ABSENT**

**STAFF PRESENT**

Sherry Mehl, Executive Officer  
Denise Pellerin, Assistant Executive Officer  
Dan Buntjer, Legal Counsel  
Julie McAuliffe, Administrative Analyst

**GUEST LIST ON FILE**

The meeting was called to order at 10:45 a.m.

**1. APPROVAL OF MINUTES**

LORIE RICE MOVED, SELMA FIELDS SECONDED, AND THE COMMITTEE CONCURRED TO APPROVE THE MINUTES OF AUGUST 6, 1998.

LORIE RICE MOVED, SELMA FIELDS SECONDED, AND THE COMMITTEE CONCURRED TO APPROVE THE MINUTES OF OCTOBER 29, 1998.

**2. PRESENTATION REGARDING THE EXAMINATION PROCESS**

Ms. Mehl introduced Dr. Norman Hertz from the Office of Examination Resources (OER) and stated that OER is under the Department of Consumer Affairs and provides oversight for all the examinations administered by the Board. In addition, the Board contracts with OER to assist in all of the development of our examinations. They are also responsible for analyzing all of the Board's statistical information. Dr. Hertz explained that OER is considered an independent agency. Their mission is to advocate for the candidates and for the consumers by building

examinations that test candidates ability to practice safely, which provides protection to the consumer.

Examination development and preparation for the Board are continual. OER and the Board have made great strides in examination redevelopment in the last two years. Occupational analysis for the MFCC and the LCSW professions were recently conducted. The results of the analysis define current practice in California, and are used as a basis for the development of the current written and oral examinations. The data showed that ethical and legal issues should be tested as separate areas. The data also indicated that the area of human diversity should be tested as a separate area also. Subject matter experts were able to design the examinations to test this issue sensitively.

The Board and OER has had concerns with the American Association of State Social Work Boards (AASSWB) national clinical written examination. Concerns included the job analysis survey conducted by the AASSWB which did not include a representative number of licensees in California and the fact that the first time pass rate is 89% for California candidates. Based on these concerns as well as the completion of the current occupational analysis, there was a determination made that there was a need for a new state constructed written examination. The examination has been developed and constructed and will begin to be administered in late April 1999. The work involved in developing an examination includes subject matter experts and numerous workshops.

The Master Service Agreement is in place and the vendor offers the written examinations electronically on a continuous basis. The MFT examination went on line on February 1, 1999, and ran very smoothly. The vendor has also been able to accommodate candidates who wish to take the written examination before the final filing date for the next oral examination. The Board was the first board within the Department to begin contracting with this vendor. All boards may eventually administer their examinations through this vendor. Ms. Mehl stated that this vendor has been very responsive to all of our needs. A modem is set up in the office and we are now able to know the results of candidates daily. Also, we will eventually be paperless in the written examination process.

Dr. Hertz added that examination security includes photographs of all candidates to ensure to actual person is participating in the examination. He then thanked Ms. Mehl for all of her interest and positive efforts in the implementation of this process.

Dr. Hertz stated that he feels very positive about the vignette development process. Also, the oral examination rating scale has been expanded and has been working very well. Another rating level has been added which allows examiners to make some distinctions in relation to minimum competency. The process of determining minimum competency includes a critical incident methodology workshop. Behaviors that represent performance are identified and how this behavior relates to subject matter areas in the examinations are determined. A questionnaire is created and mailed to licensees asking them to identify the content area where the identified behavior belongs and the level of effectiveness on a scale of one to nine. If there was a deviation of the survey determination the behavior was not used in the examination process. The data is also used to set the passing scores. Subject matter experts assist in this process.



Dr. Hertz feels that more work is needed in the written examination process. A larger item pool needs to be created. He explained every item written goes back to a reference book and has asked schools to assist in identifying which text books are currently being used in their programs.

Ms. Mehl stated that we have received quite a lot of information and OER and the Board are in the process of compiling this information. The Board now has its own library and hopes that we will eventually be able to provide a current reference list.

Dr. Hertz suggested creating more versions of the written examination. A Budget Change Proposal will be submitted for further written examination development. There is a need to create another complete examination in case there is ever a breach of examination security.

Dr. Hertz stated that he and Ms. Mehl work collaboratively together and it is a pleasure to work with her.

Ms. Mehl stated that the examination statistics continue to be strong and the inter rater reliability continues to be consistent.

Abby Franklin, LCSW and representing the California Society of Clinical Social Work, stated that as a person involved in the examination construction process, it has been very exciting and has been a privilege to be a part of this process. She then questioned about the provisions for security for the written examination. Ms. Mehl explained that photographs are taken of the candidate and are compared with the photograph included in the candidate's file and candidates are required to sign a security agreement. The Examination Unit and Board staff are located in a secure office and the examination materials are kept in a locked room.

The new contractor has assured Ms. Mehl that they have been offering examinations for quite a long time and are familiar with current possible examination confidentiality breaches. There is also specific examiner training that relates to security and examiners are trained on what to look for.

Ms. Mehl cautioned future candidates that the preparation materials currently offered by independent companies may contain inaccurate information.

Dr. Hertz indicated that OER provides a more secure item writing environment. One staffperson and one back up staffperson are the only two staff members in OER that have accessibility to the materials and all materials are kept in a locked room. Also, examination questions are scrambled for each examination so there is no possibility that two candidates can take the same examination.

Jan Lee Wong, Executive Director of the National Association of Social Workers, questioned the surveys that were sent by the AASSWB to California LCSW's. Ms. Mehl indicated that only twelve California LCSW's were surveyed by AASSWB and this is not a representative number of the current practice. Over 2,000 LCSW's were surveyed during the Board's 1998 occupational analysis. There were also questions on the AASSWB survey in relation to independent and private practice and their understandings of these practices are different than independent California practice. She then indicated that we did survey licensees in various types of settings to grasp a better understanding of the current practice. We also have compared the AASSWB examination outline and our outline and it is very easy to recognize the differences. Mr. Wong

questioned what will happen to licensees from out of state who apply for licensure in California and have taken the AASSWB clinical level examination. Ms. Mehl stated that we would accept passing AASSWB examination scores from an applicant so long as the examination was taken during the period of time the Board participated in the examination. After we begin administering the state constructed written examination, we will require an out of state application to take this examination. Mr. Wong then commented on the possibility of offering the examination in other languages in the future.

David Fox, MFCC, complimented the Board and Dr. Hertz on the current examination process. He then asked that the Board review the last MFT oral examination vignettes to determine if the issue of diversity is addressed throughout the vignettes.

Francine Neely from Pepperdine University complemented the Board and the Office of Examination Resources on the examination process. She offered to meet with Ms. Mehl and OER to assist in the book reference collaboration.

Mary Riemersma, Executive Director of the California Association of Marriage and Family Therapists, stated that the association was very excited and appreciative of the current MFT examination process and the statistical results.

Ms. Buck thanked Dr. Hertz for providing all of the information to the Committee.

### **3. EXAMINATION STATISTICS**

The statistics were provided in the meeting binder. Ms. Mehl stated that the oral statistics were printed prior to the appeal results and pointed out that the pass rate for the first time takers has increased.

### **4. ORAL EXAMINATION APPEAL INFORMATION**

Ms. Mehl stated that the Committee had requested to review this information. The appeal process has been streamlined within the office and has been working very smoothly.

The meeting adjourned at 11:50 a.m.

**Subject: Agenda Item V - Propose to Amend Title 16, California Code of Regulations Sections 1887(b), Continuing Education Requirements for Marriage and Family Therapists and Licensed Clinical Social Workers, 1887.2(a), Exceptions From Continuing Education Requirements, and 1887.3(a), Continuing Education Course Requirements**

## Proposed Language

# ATTACHMENT A

**BOARD OF BEHAVIORAL SCIENCES  
PROPOSED LANGUAGE  
Title 16, California Code of Regulations (CCR)  
Sections 1887(a), 1887.2(a), 1887.3(a)**

*Amend CCR Sections 1887(b), 1887.2(a), and 1887.3(a) as follows:*

**§1887**

As used in this article:

(a) A continuing education "course" means a form of systematic learning at least one hour in length including, but not limited to, academic studies, extension studies, lectures, conferences, seminars, workshops, viewing of videotapes or film instruction, viewing or participating in other audiovisual activities including interactive video instruction and activities electronically transmitted from another location which has been verified and approved by the continuing education provider, and self-study courses.

~~(b) A "self-study course" means a form of systematic learning performed at a licensee's residence, office, or other private location including, but not limited to, listening to audiotapes or participating in self-assessment testing (open-book tests that are completed by the member, submitted to the provider, graded, and returned to the member with correct answers and an explanation of why the answer chosen by the provider was the correct answer).~~

**§1887.2**

(a) An initial licensee shall complete at least eighteen (18) hours of continuing education, ~~of which no more than six (6) hours may be earned through self-study courses,~~ education prior to his or her first license renewal.

**§1887.3**

(a) A licensee shall accrue at least thirty-six (36) hours of continuing education courses as defined in Section 1887.4. ~~A licensee may accrue no more than twelve (12) hours of continuing education earned through self-study courses during a single renewal period.~~



**State of California**

## **Memorandum**

**To:** Consumer Protection Committee

**Date:** June 13, 2006

**From:** Christy Berger  
Legislation Analyst

**Telephone:** (916) 574-7847

**Subject: Agenda Item VI - Discuss and Compare Exempt Settings Across the Practice Acts**

---

### Background

The Licensed Clinical Social Worker (LCSW) and Marriage and Family Therapist (MFT) statutes specify certain types of organizations, referred to here as “exempt settings,” whose employees are not required to have a license or a registration in order to perform clinical social work or marriage and family therapy within the scope of their employment.

When comparing the LCSW and MFT statutes, they have some exempt settings in common, but there are some differences. The MFT statute lists fewer exemptions and is more narrow. The Licensed Educational Psychologist statute does not specify any exempt settings.

### History

Exempt settings have been listed in statute from the time the Board began licensing clinical social workers in 1968. This statute has remained virtually the same throughout the years.

Just two types of exempt settings were listed in the MFT statute when the Board began licensing MFTs, also in the late 1960's. These were institutions both nonprofit and charitable, and accredited educational institutions. However, such institutions were required to apply to the Board for a biennial waiver, and had to demonstrate adequate supervision of non-licensed counseling personnel, as well as a community or training need.

In 1976, governmental agencies were added to the list of exempt settings in the MFT statute. These agencies were not required to obtain a waiver from the Board. In 1986, the MFT statute was amended to remove the need for any setting to obtain a waiver.

### Current Law

The exempt settings currently listed in statute are as follows:

<b>LCSW</b> BPC* § 4996.14	<b>MFT</b> BPC* § 4980.01(c)	<b>Comment / Comparison</b>
<ul style="list-style-type: none"> <li>Federal, state, county or municipal governmental organizations</li> <li>United States Department of Health and Human Services</li> </ul>	<ul style="list-style-type: none"> <li>Governmental entity</li> </ul>	<i>LCSW: The U.S. Department of Health and Human Services is a federal entity.</i>
<ul style="list-style-type: none"> <li>Accredited colleges, junior colleges, or universities</li> </ul>	<ul style="list-style-type: none"> <li>School, college, or university</li> </ul>	<i>The LCSW statute does not consider a K-12 school or non-accredited educational institution (i.e., state-approved college) exempt, though the MFT statute does consider them exempt.</i>
<ul style="list-style-type: none"> <li>Nonprofit organizations engaged in research and education, and services defined by a board composed of community representatives and professionals</li> </ul>	<ul style="list-style-type: none"> <li>Institution both nonprofit and charitable</li> </ul>	<i>The MFT statute requires an entity to be BOTH nonprofit and charitable; under the LCSW a nonprofit doesn't have to be charitable but has additional specifications about activities and board members.</i>
<ul style="list-style-type: none"> <li>Family or children services agencies</li> </ul>	<ul style="list-style-type: none"> <li>No such equivalent</li> </ul>	<i>LCSW: Many such agencies are governmental or nonprofit, but also included are private agencies such as adoption and foster family agencies.</i>
<ul style="list-style-type: none"> <li>Proprietary or nonproprietary private psychiatric clinics</li> </ul>	<ul style="list-style-type: none"> <li>No such equivalent</li> </ul>	<i>LCSW: Psychiatric health facilities and psychological clinics are licensed by the state**, but we find no mention of a "psychiatric clinic."</i>
<p><u>In exempt settings, practice must be performed <b>either</b>:</u></p> <ul style="list-style-type: none"> <li>Within the confines or under the jurisdiction of the employer</li> <li>As part of the duties for which a person is employed</li> </ul>	<p><u>In exempt settings, practice must be performed <b>both</b>:</u></p> <ul style="list-style-type: none"> <li>Under the supervision of the employer</li> <li>As part of the position for which a person is employed</li> </ul>	<i>The difference between the "either" or "both" means that under the LCSW statute, a person could be hired as an independent contractor. The MFT statute does not allow this.</i>

\*Business and Professions Code

\*\*Title 22, California Code of Regulations, Division 5

### Questions for Consideration

- Is there a need to have different types of exempt settings in the MFT and LCSW statutes?
- Is there a need to have different requirements about how practice must be performed in exempt settings between the MFT and LCSW statutes?
- Is there a need for the LEP statute to specify exempt settings?
- What steps should the board take toward making changes, if any?

### Attachments:

- Business and Professions Code Section 4996.14
- Business and Professions Code Section 4980.01(c)

# ATTACHMENT A



#### **§4996.14. EMPLOYEES OF CERTAIN ORGANIZATIONS; ACTIVITIES OF PSYCHOSOCIAL NATURE OR USE OF OFFICIAL TITLE OF POSITION**

Nothing in this chapter shall restrict or prevent activities of a psychosocial nature or the use of the official title of the position for which they are employed on the part of the following persons, if those persons are performing those activities as part of the duties for which they are employed or solely within the confines or under the jurisdiction of the organization in which they are employed. However, they shall not offer to render clinical social work services, as defined in Section 4996.9, to the public for a fee, monetary or otherwise, over and above the salary they receive for the performance of their official duties with the organization in which they are employed.

- (a) Persons employed by the United States Department of Health and Human Services.
- (b) Persons employed in family or children services agencies.
- (c) Individuals employed in proprietary or nonproprietary private psychiatric clinics.
- (d) Individuals employed in accredited colleges, junior colleges, or universities.
- (e) Individuals employed in federal, state, county or municipal governmental organizations, or nonprofit organizations which are engaged in research, education, and services which services are defined by a board composed of community representatives and professionals.
- (f) Persons utilizing hypnotic techniques by referral from persons licensed to practice medicine, dentistry, or psychology, or persons utilizing hypnotic techniques which offer a vocational or vocational self-improvement and do not offer therapy for emotional or mental disorders.

# ATTACHMENT B

**§4980.01. CONSTRUCTION WITH OTHER LAWS; NONAPPLICATION TO CERTAIN PROFESSIONALS AND EMPLOYEES**

(a) Nothing in this chapter shall be construed to constrict, limit, or withdraw the Medical Practice Act, the Social Work Licensing Law, the Nursing Practice Act, or the Psychology Licensing Act.

(b) This chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination when performing counseling services as part of his or her pastoral or professional duties, or to any person who is admitted to practice law in the state, or who is licensed to practice medicine, when providing counseling services as part of his or her professional practice.

(c) This chapter shall not apply to an employee of a governmental entity or of a school, college, or university, or of an institution both nonprofit and charitable if his or her practice is performed solely under the supervision of the entity, school, or organization by which he or she is employed, and if he or she performs those functions as part of the position for which he or she is employed.

(d) A marriage and family therapist licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care practitioner subject to the provisions of Section 2290.5 pursuant to subdivision (b) of that section.

(e) Notwithstanding subdivisions (b) and (c) all persons registered as interns or licensed under this chapter shall not be exempt from this chapter or the jurisdiction of the board.



## Proposed Procedures

In order to clarify section 1887.8 Revocation and Denial of Board-Approved Provider Status, and to aid in enforcing the section, board staff proposes the following procedures:

### Process for Denial of Board-Approved Provider Status

- Receipt of provider application.
- Review by CE Technician within 6 – 8 weeks of receipt.
- Prepare and send denial letter. (Attachment 3)
- Include Request for Appeal of Denial form. (Attachment 4)
- *Appeal form must be returned within 15 days or denial is automatically upheld.*

### Process for Revocation of Board-Approved Provider Status

- Prepare and send revocation letter. (Attachment 5)
- Include Request for Appeal of Revocation form. (Attachment 6)
- *Appeal form must be returned within 15 days or revocation is automatically upheld.*

### Process for Provider Appeal

- Receipt of denial/revocation appeal.
- *Respond to appeal within 10 days of receipt of appeal.*
- Prepare and send acknowledgement/scheduling letter. (Attachments 7 & 8)
- *Schedule appeal conference within 60 days of receipt of appeal.*
- Appeal heard by Executive Officer.
- Prepare and send appeal decision letter. (Attachments 9, 10, 11 & 12)  
If appeal denied, include Request for Appeal before Continuing Education Committee form. (Attachments 13 & 14)
- *Appeal decision letter must be sent to applicant within 10 days of appeal hearing.*

### Process Request for Hearing before Continuing Education Appeals Committee

- Receipt of EO denial/revocation decision appeal.
- *Respond to appeal within 10 days of receipt of appeal.*
- Notify EO and AEO to notice hearing on next Board meeting agenda.
- Send acknowledgement/scheduling letter. (Attachment 15)

### Process for Continuing Education Appeals Committee

- The CE Appeals Committee hearing is conducted in the same manner as other Board committee meetings.
- Only committee members should sit on dais. Board members not on the committee may sit in the audience.
- The evidence/testimony is given in open session.
- The committee also deliberates in open session. (This doesn't qualify for a Bagley-Keene closed session exemption.)
- The decision of the committee is "final." The decision cannot be further appealed to the Board. (The next appeal step for the aggrieved applicant/provider is to petition the Superior Court for a writ of mandamus.)
- The committee prepares a written decision. There is no one "magic" format for the decision that needs be used.

- Applicant notified of hearing decision within 30 days of hearing date. (Attachments 16, 17, 18 & 19)

***Note: Currently there are no restrictions on how soon someone may reapply for a PCE Approval following a denial/revocation. Imposing one could be done by regulation.***

#### Attachments

1. Continuing Education Provider Application Packet
2. California Code of Regulations, Title 16, Division 18, Article 8
3. Denial Letter Regarding PCE Application
4. Request for Appeal of Denial
5. Revocation of PCE Approval
6. Request for Appeal of Revocation
7. Notification of Appeal Conference - Denial
8. Notification of Appeal Conference – Revocation
9. Decision Following Appeal Conference – to Grant Approval of PCE Provider Application
10. Decision Following Appeal Conference – to Uphold Denial of PCE Provider Application
11. Decision Following Appeal Conference – to Reinstate PCE Provider Number
12. Decision Following Appeal Conference – to Uphold Revocation of PCE Provider Approval
13. Request Form for Appeal Before Continuing Education Appeals Committee (Denial)
14. Request Form for Appeal Before Continuing Education Appeals Committee (Revocation)
15. Acknowledgement Letter for Appeal Before Continuing Education Appeals Committee
16. Decision of Continuing Education Appeals Committee to Grant Approval of PCE Provider Application
17. Decision of Continuing Education Appeals Committee to Uphold Denial of PCE Provider Application
18. Decision of Continuing Education Appeals Committee to Reinstate PCE Provider Number
19. Decision of Continuing Education Appeals Committee to Uphold Revocation of PCE Provider Number

# ATTACHMENT 1



**BOARD OF BEHAVIORAL SCIENCES**  
1625 N MARKET BLVD, SUITE S-200, SACRAMENTO, CA 95834  
TELEPHONE: (916) 574-7830 TDD: (916) 322-1700  
WEBSITE ADDRESS: <http://www.bbs.ca.gov>



## CONTINUING EDUCATION (CE) PROVIDER APPLICATION PACKET

Thank you for your interest in becoming a provider of continuing education (CE) for licensed marriage and family therapists (MFTs) and licensed clinical social workers (LCSWs) in California. This packet contains the following:

- CE Provider Requirements (FAQ's)
- CE Provider Application

As of January 1, 2000, the law requires MFTs and LCSWs to have 36 hours\* of CE for each biennial license renewal. Business and Professions Code Sections 4980.54 (f)(1) and 4996.22(d)(1) states in part that licensees must take courses from accredited/approved schools or Board-approved providers, and course subject matter must be related to the MFT's or LCSW's scope of practice.

It is important that you read the CE Requirements for providers carefully, as it will be your responsibility as the provider to meet all Board requirements. Violation of these requirements could result in adverse action on your provider approval.

**Please complete and return the application form, along with the non-refundable \$200 application fee** (make your check or money order payable to the Board of Behavioral Sciences). Once the Board receives your fee and approves you as a CE provider, you will be issued a provider number valid for two years. You may begin offering CE credit to both MFTs and LCSWs after you are issued a provider number. The Board will not be approving individual courses. A valid provider approval enables you to offer any courses that meet Board criteria.

If you have any questions, please contact the Board's Continuing Education Unit at (916) 445-4933 x1008.

\* Licensees who are renewing for the very first time, are required to take 18 hours of CE and 36 for each subsequent renewal.



# CALIFORNIA BOARD OF BEHAVIORAL SCIENCES

## CONTINUING EDUCATION PROVIDER REQUIREMENTS (FAQs)

Revised 3/04

(contained in the California Business and Professions Code Chapters 13 and 14 and the California Code of Regulations Title 16, Division 18)

### WHAT TYPES OF COURSEWORK ARE ACCEPTABLE?

Coursework needs to be related to the MFT/LCSW scope of practice and incorporate at least one of the following:

- (1) Aspects of counseling or social work that are fundamental to the understanding or practice of counseling or social work;
- (2) Aspects of counseling or social work in which significant recent developments have occurred; and
- (3) Aspects of other related disciplines that enhance the understanding or practice of counseling or social work.

### WHAT IS AN MFT'S SCOPE OF PRACTICE?

It is that service performed with individuals, couples, or groups wherein interpersonal relationships are examined for the purpose of achieving more adequate, satisfying, and productive marriage and family adjustments. This practice includes relationship and premarriage counseling. The applications of marriage, family, and child counseling principles and methods includes, but is not limited to, the use of applied psychotherapeutic techniques, to enable individuals to mature and grow within marriage and the family, and the provision of explanations and interpretations of the psychosexual and psychosocial aspects of relationships. (B&P §4980.02)

### WHAT IS AN LCSW'S SCOPE OF PRACTICE?

It is a service in which a special knowledge of social resources, human capabilities, and the part that unconscious motivation plays in determining behavior, is directed at helping people to achieve more adequate, satisfying, and productive social adjustments. The application of social work principles and methods includes, but is not restricted to, counseling and using applied psychotherapy of a nonmedical nature with individuals, families, or groups; providing information and referral services; providing or arranging for the provision of social services; explaining or interpreting the psychosocial aspects in the situations of individuals, families, or groups; helping communities to organize, to provide, or to improve social or health services; or doing research related to social work. (B&P §4996.9)

### WHAT ARE THE FEES RELATED TO APPROVAL?

- \$200 application fee (also good for first 2-year approval)
  - \$200 biennial renewal fee
- These fees are non-refundable.

### WHAT DOES BOARD APPROVAL COVER?

A current, valid provider approval will cover any courses that meet Board requirements. There is no limit to the number of courses a provider can offer.

### HOW LONG DOES BOARD APPROVAL LAST?

Approval is renewed biennially.

Your application fee will cover the first two years' approval. As a courtesy, three months before your expiration date, you will be sent a renewal notice. To renew, just send the bottom part of the notice along with the renewal fee to the Board.

**THERE IS NO GRACE PERIOD. You are responsible for renewing your approval whether or not you receive the renewal notice.**

### WHAT IF MY BOARD APPROVAL EXPIRES?

If your Board approval expires, it immediately cancels and you will need to apply for a new approval. **Any course offered after your approval cancels will not count for CE.**

### WILL MY PROVIDER APPROVAL BE LINKED TO MY PERSONAL LICENSE?

Yes. **If you as an individual are the provider**, any disciplinary action on your personal license (MFT, LCSW, LEP, PSY, etc.) may affect your provider approval, and any disciplinary action on your provider approval may affect your personal license.

### CAN A PROVIDER APPLICATION BE DENIED?

Yes. Board approval will be denied for good cause, including:

- (1) a provider is convicted of a felony or misdemeanor offense related to the activities of a provider;
- (2) a provider, if a licensee, violates any laws or regulations relating to the practice of MFT, LCSW, or LEP; or
- (3) a provider makes a material misrepresentation of fact in

information submitted to the Board.

A notice of denial will be sent to the provider and the provider will have an opportunity to appeal the denial to the Board's designee. Thereafter, if still not satisfied with the outcome, the provider will have a chance to appeal to a committee of the Board. The decision of this committee is final.

### **CAN BOARD APPROVAL BE REVOKED?**

Yes. The Board may revoke its approval of a provider for good cause.

### **ARE COURSES APPROVED BY THE BOARD?**

No, it is the provider's responsibility to ensure that courses meet Board requirements.

### **WHAT KINDS OF COURSES ARE ACCEPTABLE?**

Any course relating to the MFT or LCSW scope of practice is acceptable. Courses can relate to direct patient/client care (theoretical frameworks, intervention techniques, etc.) or indirect patient/client care (legal issues, consultation, office management, insurance matters, supervision training, etc.).

### **CAN A COURSE BE OFFERED TO BOTH MFTs & LCSWs?**

A course can be offered to both MFTs and LCSWs as long as it relates to both scopes of practice.

### **ARE ANY COURSES UNACCEPTABLE AS CE?**

Courses outside the MFT or LCSW scope of practice are not acceptable.

The Board will be issuing your approval based on the sample course information you submit with your application. Although the Board will not be approving

individual courses, a provider application will not be approved if the course subject matter is outside the scope of practice.

### **WHAT IS A "SELF-STUDY COURSE"?**

A self-study course is a course offered by a Board-approved provider, performed at a licensee's residence, office, or other private location. This includes listening to audiotapes or participating in self-assessment testing. Self-study courses must administer a test prior to issuing a record of course completion to the licensee. Licensees can earn up to one-third of their CE hours through self-study courses. **Please specify on the certificates you issue to our licensees if the hours were earned through self-study.**

### **PLEASE NOTE: AMENDED REGULATION REGARDING OBTAINING CE.**

Effective February 1, 2003, licensees may obtain all of their hours of required continuing education through interactive, electronic means. This includes online, teleconferencing and videotape viewing.

### **WHAT IS THE SPOUSAL OR PARTNER ABUSE REQUIREMENT?**

For renewals after January 1, 2004 all licensees will be required to complete a one-time course in spousal or partner abuse assessment, detection, and intervention strategies including community resources, cultural factors, and same gender abuse dynamics. There is no hour length specified for courses in 2004.

If the spousal or partner abuse course is taken on or after January 1, 2005, it must be at least seven hours. Licensees can use prior, equivalent coursework or experience to waive this requirement, but it will not count towards the CE

hours.

### **WHAT IS THE LAW & ETHICS REQUIREMENT?**

For renewals after January 1, 2004, all licensees are required to complete at least six hours of CE in the area of Law and Ethics as a condition of **each renewal**.

### **WHAT IS THE AGING AND LONG-TERM CARE REQUIREMENT?**

For renewals after January 1, 2005, those persons who began graduate study prior to January 1, 2004 must complete a three-hour continuing education course in aging and long term care. The course could include, but is not limited to, the biological, social, and psychological aspects of aging. Licensees can use prior, equivalent coursework or experience to waive this requirement, but it will not count towards the CE hours.

### **WHAT IS THE HIV/AIDS COURSE REQUIREMENT?**

MFTs and LCSWs must take a one-time course in HIV and AIDS. This course must be at least 7 hours in length and taken during the licensee's first renewal period after the adoption of the CE regulations. Licensees can use prior, equivalent coursework or experience to waive this requirement, but it will not count towards the CE hours.

This coursework must cover the characteristics and method of assessment and treatment of people living with HIV and AIDS.

### **DOES EACH COURSE REQUIRE AN EVALUATION?**

Yes. It is the provider's responsibility to ensure that

each attendee completes an evaluation upon course completion. Evaluations do not have to be kept as part of the course records.

### ARE ANY TESTS REQUIRED?

The only testing required by the Board is a post-test for self-study courses. Otherwise, testing during a course is not required.

### HOW MANY HOURS CAN BE EARNED PER COURSE?

Each provider decides this. In general, licensees will earn one hour of CE for each actual hour of instruction. Lunch and breaks can be counted as hours of CE only if actual instruction outlined in the course syllabus is occurring during that time.

### HOW MANY HOURS CAN BE EARNED FOR AN ACADEMIC COURSE?

1 semester unit = 15 CE hours  
1 quarter unit = 10 CE hours

### WHAT ARE COURSE ADVERTISEMENT REQUIREMENTS?

Advertisements need to be accurate and include:

- (1) the provider's name;
- (2) the provider number;
- (3) the statement "Course meets the qualifications for \_\_\_\_\_ hours of continuing education credit for MFTs and/or LCSWs as required by the California Board of Behavioral Sciences."
- (4) the provider's policy on refunds in cases of non-attendance; and
- (5) a clear, concise description of the course content and objectives.

### WHAT ARE COURSE INSTRUCTOR REQUIREMENTS?

Providers are responsible for

ensuring that instructors meet **at least 2** of the following criteria:

- (1) a current, valid license, registration, or certificate, free from disciplinary action, in an area related to the subject matter of the course;  
**NOTE:** *If at any time an instructor's license is restricted pursuant to disciplinary action in California or any other territory, they must notify all approved providers that he/she is providing instruction for, BEFORE instruction begins or immediately upon notice of the decision whichever occurs first.*
- (2) a master's or higher degree from an educational institution in an area related to the subject matter of the course;
- (3) training, certification, or experience in teaching subject matter related to the subject matter of the course; or
- (4) at least 2 years' experience in an area related to the subject matter of the course.

The Board will be issuing your approval based on the sample instructor information you submit with your application. Although the Board will not be approving individual instructors, a provider application will be denied if the instructor information does not meet Board criteria.

### ARE PROVIDERS REQUIRED TO ISSUE RECORDS OF COURSE COMPLETION?

Yes. Providers are responsible for issuing a record of course completion (e.g., letters of verification of attendance, certificates, or transcripts) to each attendee. These records of course completion must include:

- (1) name of licensee and license number or other identification number;
- (2) course title;

- (3) provider name and address;
- (4) provider number;
- (5) date of course;
- (6) number of hours of continuing education credit; and
- (7) signature of course instructor, provider, or provider designee.

### WHAT TYPES OF RECORDS MUST PROVIDERS KEEP?

Providers are responsible for keeping the following records for **at least 4 years**:

- (1) syllabi for all courses;
- (2) the time & location of courses;
- (3) course advertisements;
- (4) instructors' vitae/resumes;
- (5) attendance rosters with the names & license numbers of licensees who attended the course;
- (6) sign-in sheets; and
- (7) records of course completion issued to licensees who attended the course.

Providers are required to submit the above records to the Board only when they are audited. Providers will be audited on a random basis to ensure compliance with Board criteria.

### WHAT ABOUT AUDITS?

The Board is authorized to audit records, courses, instructors, related activities of a provider, and licensees to assure compliance with the law and regulations. Site visits may be scheduled in a CE provider's office.

The Board will conduct random audits of advertising. You are requested to respond to these audits by the dates specified in the audit notice. Failure to comply with the request may lead to administrative action.

### LICENSEE LISTS/LABELS

**To order lists of licensees**

***and their addresses by  
license type and/or  
geographical location, please  
contact:***

***DEPT OF CONSUMER  
AFFAIRS  
PUBLIC SALES OFFICE  
(916) 574-8150***

***You will need to specify that  
you are requesting  
information for Marriage and  
Family Therapists and/or  
Licensed Clinical Social  
Workers.***



**LAWS AND REGULATIONS**

***To obtain the laws and  
regulations, please contact  
the Board at:***

***1625 N Market Blvd, Suite S-200  
Sacramento, CA 95834  
(916) 574-7830  
<http://www.bbs.ca.gov>***

**CONTINUING EDUCATION (CE)**  
**PROVIDER APPLICATION**  
**\$200 FEE (Non-refundable)**

For Office Use Only:

Cashiering No.: \_\_\_\_\_

File No. \_\_\_\_\_

Approval No.: \_\_\_\_\_

*(please type or print clearly in ink - use additional paper as necessary)*

1. PROVIDER NAME <i>(limited to 40 characters)</i>		2. BUSINESS PHONE NUMBER (      )													
3. MAILING ADDRESS <i>(street address, city, state, zip)</i>															
EMAIL OR WEBSITE ADDRESS (optional)		WILL OFFER ON-LINE COURSES  YES <input type="checkbox"/> NO <input type="checkbox"/>													
4. ORGANIZATION TYPE <i>(select one)</i> <table border="0"><tr><td><input type="checkbox"/> association</td><td><input type="checkbox"/> 4-yr institution of higher Learning</td><td><input type="checkbox"/> non-profit corporation</td></tr><tr><td><input type="checkbox"/> licensed health facility</td><td><input type="checkbox"/> other educational organization</td><td><input type="checkbox"/> partnership</td></tr><tr><td><input type="checkbox"/> governmental agency</td><td><input type="checkbox"/> corporation</td><td><input type="checkbox"/> individual *</td></tr><tr><td><input type="checkbox"/> other <i>(please specify):</i></td><td></td><td>TYPE: _____ LIC. # _____</td></tr></table>				<input type="checkbox"/> association	<input type="checkbox"/> 4-yr institution of higher Learning	<input type="checkbox"/> non-profit corporation	<input type="checkbox"/> licensed health facility	<input type="checkbox"/> other educational organization	<input type="checkbox"/> partnership	<input type="checkbox"/> governmental agency	<input type="checkbox"/> corporation	<input type="checkbox"/> individual *	<input type="checkbox"/> other <i>(please specify):</i>		TYPE: _____ LIC. # _____
<input type="checkbox"/> association	<input type="checkbox"/> 4-yr institution of higher Learning	<input type="checkbox"/> non-profit corporation													
<input type="checkbox"/> licensed health facility	<input type="checkbox"/> other educational organization	<input type="checkbox"/> partnership													
<input type="checkbox"/> governmental agency	<input type="checkbox"/> corporation	<input type="checkbox"/> individual *													
<input type="checkbox"/> other <i>(please specify):</i>		TYPE: _____ LIC. # _____													
5. HAVE YOU OR YOUR AGENCY EVER APPLIED TO BE A PROVIDER WITH THIS BOARD BEFORE?      YES <input type="checkbox"/> NO <input type="checkbox"/> IF APPROVED, PCE # _____ IF DENIED, DATE OF DENIAL _____															
6. CE COORDINATOR NAME		7. CE COORDINATOR PHONE NUMBER (      )													
8. COURSE SUBJECT MATTER(S) <i>(list subject matter - <b>attach course outlines and explanation of how it relates to the scope of practice of LCSWs and MFTs</b>)</i>															
9. INSTRUCTOR QUALIFICATIONS <i>(check all that apply - <b>attach instructor resumes</b>)</i> <table border="0"><tr><td><input type="checkbox"/> license, registration, or certificate in an area related to the course subject matter</td></tr><tr><td><input type="checkbox"/> master's or higher degree in an area related to the course subject matter</td></tr><tr><td><input type="checkbox"/> training, certification, or teaching experience in subject matter related to the course subject matter</td></tr><tr><td><input type="checkbox"/> at least 2 years' experience in an area related to the course subject matter</td></tr><tr><td><input type="checkbox"/> other <i>(please specify):</i></td></tr></table>				<input type="checkbox"/> license, registration, or certificate in an area related to the course subject matter	<input type="checkbox"/> master's or higher degree in an area related to the course subject matter	<input type="checkbox"/> training, certification, or teaching experience in subject matter related to the course subject matter	<input type="checkbox"/> at least 2 years' experience in an area related to the course subject matter	<input type="checkbox"/> other <i>(please specify):</i>							
<input type="checkbox"/> license, registration, or certificate in an area related to the course subject matter															
<input type="checkbox"/> master's or higher degree in an area related to the course subject matter															
<input type="checkbox"/> training, certification, or teaching experience in subject matter related to the course subject matter															
<input type="checkbox"/> at least 2 years' experience in an area related to the course subject matter															
<input type="checkbox"/> other <i>(please specify):</i>															
<i>I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</i>  <table border="0"><tr><td>_____</td><td>_____</td></tr><tr><td>CE Coordinator Signature</td><td>Date</td></tr></table>				_____	_____	CE Coordinator Signature	Date								
_____	_____														
CE Coordinator Signature	Date														

**- PLEASE ALLOW 6 TO 8 WEEKS FOR PROCESSING -**

## **CE PROVIDER APPLICATION INSTRUCTIONS**

SUBMIT YOUR COMPLETED APPLICATION AND FEE TO THE:

BOARD OF BEHAVIORAL SCIENCES  
CONTINUING EDUCATION PROGRAM  
1625 N MARKET BLVD, SUITE S-200  
SACRAMENTO, CA 95824

1. **PROVIDER NAME:** Full business name or individual's name (limited to 40 characters) **NOTE:** *If provider is an individual, it will be listed by last name then first name.*
2. **BUSINESS PHONE NUMBER:** The business phone number will be provided to licensees upon request.
3. **MAILING ADDRESS:** The address is public information and will be placed on the internet.
4. **ORGANIZATION TYPE:** The primary organization type of the provider - collected for statistical purposes only.
5. **HAVE YOU OR YOUR AGENCY EVER APPLIED TO BE A PROVIDER WITH THIS BOARD:** This information is requested for historical purposes only and will not have any bearing on your current request for approval.
6. **CE COORDINATOR NAME:** The individual responsible for administering the provider's CE program – this person will be the primary contact for the Board of Behavioral Sciences.
7. **CE COORDINATOR PHONE NUMBER:** The CE Coordinator's phone number if different from business phone number will **not** be provided to licensees.
8. **COURSE SUBJECT MATTER(S):** A description of the types of subject matter to be covered in future MFT/LCSW courses offered by the provider. This list does not have to be all-inclusive but must include documentation that demonstrates subject matter (e.g., ads, course outlines, catalogs). If the provider does not have any courses planned at this time, list a sampling of the courses provided in the past.
9. **INSTRUCTOR QUALIFICATIONS:** Each instructor must have at least two of the four qualifications listed – check all boxes that apply and include instructor resumes that demonstrate the qualifications for a **sampling** (one to four) of the instructors.

### **INFORMATION COLLECTION, ACCESS, AND DISCLOSURE**

The information provided on this application is maintained by the Executive Officer of the Board of Behavioral Sciences, 400 R Street, Suite 3150, Sacramento, CA 95814-6240, under the authority granted by the Business and Professions Code, Division 2, Chapter 13, Article 1, Section 4980.54, and Chapter 14, Article 4, Section 4996.22.

→ **IT IS MANDATORY THAT YOU PROVIDE ALL INFORMATION REQUESTED. OMISSION OF ANY ITEM OF INFORMATION WILL RESULT IN THE APPLICATION BEING REJECTED AS INCOMPLETE.**

Your completed application becomes the property of the Board of Behavioral Sciences and will be used by authorized personnel to determine your eligibility for approval as a provider of continuing education. Information on your application may be transferred to other governmental or law enforcement agencies.

You have the right to review the records maintained on you by the Board unless the records are identified as confidential information pursuant to the Public Records Act or are exempted by Section 1798.40 of the Civil Code. You may gain access to the information by contacting the Board at the above address.

# ATTACHMENT 2

**CALIFORNIA CODE OF REGULATIONS, TITLE 16, DIVISION 18, ARTICLE 8**

**§1887.8. REVOCATION AND DENIAL OF BOARD-APPROVED PROVIDER STATUS**

(a) The board may revoke its approval of a provider or deny a provider application for good cause. Good cause includes, but is not limited to, the following:

(1) a provider is convicted of a felony or misdemeanor offense substantially related to the activities of a board-approved provider;

(2) a provider, who is a licensee of the board, fails to comply with any provisions of Chapters 13 and 14 of the Business and Professions Code or Title 16, Division 18 of the California Code of Regulations; or

(3) a provider makes a material misrepresentation of fact in information submitted to the board.

(b) After a thorough case review, should the board decide to revoke or deny its approval of a provider, it shall give the provider written notice setting forth its reasons for revocation or denial. The provider may appeal the revocation or denial in writing, within fifteen (15) days after receipt of the revocation or denial notice, and request a hearing with the board's designee. The revocation is stayed at this point.

Should the board's designee decide to uphold the revocation or denial, the provider may appeal the decision of the board's designee in writing, within seven (7) days after receipt of the decision of the board's designee, and request a hearing with a continuing education appeals committee appointed by the board chairperson. The hearing will take place at the next regularly scheduled board meeting, provided the appeal is received before the meeting is noticed to the public. It is at the discretion of the board's designee whether to stay the revocation further.

The continuing education appeals committee shall contain three board members, one public member and two members representing two of the three license types regulated by the board. The decision of the continuing education appeals committee is final.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4980.54 and 4996.22, Business and Professions Code. History

1. New section filed 5-19-97; operative 5-19-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 21).



# ATTACHMENT 3



**BOARD OF BEHAVIORAL SCIENCES**  
1625 North Market Blvd, Ste 200 Sacramento, CA 95834-1924  
Telephone (916) 574-7830  
TDD (916) 322-1700  
Website Address: <http://www.bbs.ca.gov>



**CERTIFIED MAIL**

June 14, 2006

<Provider Name>  
<Address Line 1>  
<Address Line 2>

RE: Case Number:

Dear Applicant:

Your application to become a continuing education provider is hereby denied for the following reason(s):

According to the Board's records, you were previously approved as a continuing education provider (PCE Number). Approval for (PCE Number) expired on (Date) and was subsequently cancelled. The Board has been notified that you have continued offering continuing education courses after the expiration of your provider approval.

In accordance with the California Code of Regulations Section 1887.8, the Board may deny a provider for good cause. Good cause includes, but is not limited to, "a provider makes a material misrepresentation of fact in information submitted to the Board." Your agency misrepresented itself as a Board-approved provider on (date) by (violation).

You are advised that the California Code of Regulations Section 1887.8 (b) states that the provider may appeal the denial in writing within fifteen (15) days after receipt of the denial notice, and request a hearing with the Board's designee. A form has been enclosed for you to sign requesting an appeal and allowing Paul Riches, the Board's Executive Officer, to hear your appeal as the Board's designee. When the Board receives the signed form, you will be sent a letter scheduling the appeal hearing.

Failure to send back the attached form will result in the forfeit of your appeal and the denial of your continuing education provider application will be upheld.

Sincerely,

Paul Riches  
Executive Officer

Enclosures: Copy of California Code of Regulations Section 1887.8  
Request for Appeal Form

# ATTACHMENT 4



**BOARD OF BEHAVIORAL SCIENCES**  
 1625 North Market Blvd, Ste 200 Sacramento, CA 95834-1924  
 Telephone (916) 574-7830  
 TDD (916) 322-1700  
 Website Address: <http://www.bbs.ca.gov>



**Request for Appeal of Denial of Continuing Education Provider Application**

Provider Applicant Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

**A request for an Informal Denial Appeal Hearing may be withdrawn at any time prior to the date of the conference.**

I hereby acknowledge receipt of the above referenced denial notice and notification of my right to appeal the denial. I hereby request:

- ☐ AN INFORMAL DENIAL APPEAL HEARING with the Executive Officer and, if I choose, legal counsel or an authorized representative. I understand the Executive Officer (or designee) may also have legal counsel or an authorized representative present at the conference.
- ☐ I choose to have the Conference held via a telephone conference, or
- ☐ I choose to have the Conference held in person in Sacramento at the Board's office.

The Denial of the Continuing Education Provider Application is appealed for the following reason(s):  
 (Attach extra pages if necessary)

---



---



---

**Please indicate whether or not you will be represented by counsel**

\_\_\_\_\_  
 Name of CE Coordinator/Provider (please print)

\_\_\_\_\_  
 Attorney's Name

\_\_\_\_\_  
 Signature of CE Coordinator/Provider

\_\_\_\_\_  
 Attorney's Address

\_\_\_\_\_  
 Telephone Number

\_\_\_\_\_  
 City State Zip

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Attorney's Telephone Number

\_\_\_\_\_  
 City State Zip

\_\_\_\_\_  
 Date

# ATTACHMENT 5



**BOARD OF BEHAVIORAL SCIENCES**  
1625 North Market Blvd, Ste 200 Sacramento, CA 95834-1924  
Telephone (916) 574-7830  
TDD (916) 322-1700  
Website Address: <http://www.bbs.ca.gov>



CERTIFIED MAIL

June 14, 2006

<Provider Name>  
<CE Coordinator>  
<Address Line1>  
<Address Line2>

RE: <Case Number>

Dear <Coordinator>:

The Board of Behavioral Sciences has reviewed the facts and information submitted regarding the complaint against your provider approval and hereby revokes your provider approval for the following reason(s):

According to the Board's investigation, you <allegations>.

In accordance with the California Code of Regulations Section 1887.8 (a), "the Board may revoke its approval of a provider for good cause." Good cause includes, but is not limited to "a provider makes a material misrepresentation of fact in information submitted to the Board."

Pursuant to California Code of Regulations Section 1887.8 (b), you have the right to appeal this revocation in writing within fifteen (15) days after receipt of the revocation notice, and request a hearing with the Board's designee. An appeal request form has been attached for your convenience.

Sincerely,

Paul Riches  
Executive Officer

Enclosures: Copy of California Code of Regulations Section 1887.8  
Request for Appeal of Revocation Form

# ATTACHMENT 6



**BOARD OF BEHAVIORAL SCIENCES**  
 1625 North Market Blvd, Ste 200 Sacramento, CA 95834-1924  
 Telephone (916) 574-7830  
 TDD (916) 322-1700  
 Website Address: <http://www.bbs.ca.gov>



**Request for Appeal of Revocation of Continuing Education Provider Approval**

Provider Applicant Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

**A request for an Informal Revocation Appeal Hearing may be withdrawn at any time prior to the date of the conference.**

I hereby acknowledge receipt of the above referenced revocation notice and notification of my right to appeal the revocation. I hereby request:

- ☐ AN INFORMAL REVOCATION APPEAL HEARING with the Executive Officer and, if I choose, legal counsel or an authorized representative. I understand the Executive Officer may also have legal counsel or an authorized representative present at the conference.
- ☐ I choose to have the Conference via telephone conference, or
- ☐ I choose to have the Conference held in person in Sacramento at the Board's office.

The Revocation of the Continuing Education Provider Approval is appealed for the following reason(s): (Attach extra pages if necessary)

---



---



---

**Please indicate whether or not you will be represented by counsel**

Name of CE Coordinator/Provider (please print)

Attorney's Name

Signature of CE Coordinator/Provider

Attorney's Address

Telephone Number

City State Zip

Address

Attorney's Telephone Number

City State Zip

Date



# ATTACHMENT 7



**BOARD OF BEHAVIORAL SCIENCES**  
1625 North Market Blvd, Ste 200 Sacramento, CA 95834-1924  
Telephone (916) 574-7830  
TDD (916) 322-1700  
Website Address: <http://www.bbs.ca.gov>



**CERTIFIED MAIL**

June 14, 2006

<Provider Name>  
<Address Line 1>  
<Address Line 2>

RE: Case No:

Dear <Provider name/CE coordinator>

Pursuant to Section 1887.8 (b) of the California Code of Regulations, a continuing education provider applicant may appeal a denial in writing within fifteen (15) days after receipt of the denial notice, and request a hearing with the Board's designee. This letter is to acknowledge receipt of your signed request for an appeal within the required timeframe allowing Paul Riches, Executive Officer of the Board of Behavioral Sciences, to hear your appeal.

You are advised that your appeal is scheduled to take place via telephone conference at the following date and time: \_\_\_\_\_

If you have questions, please contact me at (916) 574 – 7869.

Sincerely,

Jason Reinhardt  
Continuing Education/Enforcement Technician

# ATTACHMENT 8



**BOARD OF BEHAVIORAL SCIENCES**  
1625 North Market Blvd, Ste 200 Sacramento, CA 95834-1924  
Telephone (916) 574-7830  
TDD (916) 322-1700  
Website Address: <http://www.bbs.ca.gov>



CERTIFIED MAIL

June 14, 2006

<Provider Name>  
<Address Line1>  
<Address Line2>

RE: <Case Number>

Dear <Provider Name/CE Coordinator>:

Pursuant to Section 1887.8 (b) of the California Code of Regulations, a continuing education provider may appeal a revocation of approval status in writing within fifteen (15) days after receipt of the revocation notice, and request a hearing with the Board's designee. This letter is to acknowledge receipt of your signed request for an appeal within the required timeframe allowing Paul Riches, Executive Officer of the Board of Behavioral Sciences, to hear your appeal.

You are advised that your appeal is scheduled to take place via telephone conference at the following date and time: \_\_\_\_\_.

If you have questions, please contact me at (916) 574 -7869.

Sincerely,

Jason Reinhardt  
Continuing Education/Enforcement Technician

# ATTACHMENT 9



**BOARD OF BEHAVIORAL SCIENCES**  
1625 North Market Blvd, Ste 200 Sacramento, CA 95834-1924  
Telephone (916) 574-7830  
TDD (916) 322-1700  
Website Address: <http://www.bbs.ca.gov>



**CERTIFIED MAIL**

June 14, 2006

<Provider Name>  
<Address Line1>  
<Address Line2>

RE: In the Matter of the Denial of the Continuing Education Provider Application for:  
<PROVIDER NAME>, PCE Applicant, Case No: AP-XXXX-XXX

Dear Applicant:

It is the decision of the Board of Behavioral Sciences to approve your application as a continuing education provider. Your new PCE number is: \_\_\_\_\_. You will receive the certificate in the mail in approximately two weeks.

You are advised that pursuant to Section 1887.12 (c) "The Board may audit the course records of a provider to ensure compliance with the Board's continuing education requirements." Enclosed is a copy of the Laws and Regulations pertaining to Continuing Education providers.

Sincerely,

Paul Riches  
Executive Officer

Enclosures: Copy of CE Laws and Regulations

# ATTACHMENT 10



**BOARD OF BEHAVIORAL SCIENCES**  
1625 North Market Blvd, Ste 200 Sacramento, CA 95834-1924  
Telephone (916) 574-7830  
TDD (916) 322-1700  
Website Address: <http://www.bbs.ca.gov>



**CERTIFIED MAIL**

June 14, 2006

<Provider Name>  
<Address Line1>  
<Address Line2>

RE: In the Matter of the Denial of the Continuing Education Provider Application for:  
<PROVIDER NAME>, PCE Applicant, Case No: AP-XXXX-XXX

Dear Applicant:

It is the decision of the Board of Behavioral Sciences to uphold the denial of your Continuing Education Provider Application.

You are advised that pursuant to California Code of Regulations Section 1887.8 (b), you have the right to appeal this decision within 7 days of receipt of this letter. An appeal request form has been enclosed with this letter.

Sincerely,

Paul Riches  
Executive Officer

Enclosures: Formal Appeal Request Form



# ATTACHMENT 11



**BOARD OF BEHAVIORAL SCIENCES**  
1625 North Market Blvd, Ste 200 Sacramento, CA 95834-1924  
Telephone (916) 574-7830  
TDD (916) 322-1700  
Website Address: <http://www.bbs.ca.gov>



CERTIFIED MAIL

June 14, 2006

<Provider Name>  
<Address Line1>  
<Address Line2>

RE: In the Matter of the Revocation of the Continuing Education Provider Approval for:  
<PROVIDER NAME>, PCE <Number>, Case No: CE-XXXX-XXX

Dear <Provider Name>:

It is the decision of the Board of Behavioral Sciences to reinstate your provider approval under PCE <Number>. PCE \_\_\_\_\_ is valid until \_\_\_\_\_. You will receive a renewal notice 105 days before the expiration date listed above. Should you fail to renew, your provider approval will be automatically canceled, pursuant to Section 1887.7 of the California Code of Regulations.

You are advised that pursuant to Section 1887.12 (c) "The Board may audit the course records of a provider to ensure compliance with the Board's continuing education requirements." Enclosed is a copy of the Laws and Regulations pertaining to Continuing Education providers.

Sincerely,

Paul Riches  
Executive Officer

Enclosures: Copy of CE Laws and Regulations

# ATTACHMENT 12



**BOARD OF BEHAVIORAL SCIENCES**  
1625 North Market Blvd, Ste 200 Sacramento, CA 95834-1924  
Telephone (916) 574-7830  
TDD (916) 322-1700  
Website Address: <http://www.bbs.ca.gov>



CERTIFIED MAIL

June 14, 2006

<Provider Name>  
<Address Line1>  
<Address Line2>

RE: In the Matter of the Revocation of the Continuing Education Provider Approval for:  
<PROVIDER NAME>, PCE <Number>, Case No: CE-XXXX-XXX

Dear <Provider Name>:

It is the decision of the Board of Behavioral Sciences to uphold the revocation of your Continuing Education Provider Approval.

You are advised that pursuant to California Code of Regulations Section 1887.8 (b), you have the right to appeal this decision within 7 days of receipt of this letter. An appeal request form has been enclosed with this letter.

Sincerely,

Paul Riches  
Executive Officer

Enclosures: Formal Appeal Request Form

# ATTACHMENT 13



**BOARD OF BEHAVIORAL SCIENCES**  
 1625 North Market Blvd, Ste 200 Sacramento, CA 95834-1924  
 Telephone (916) 574-7830  
 TDD (916) 322-1700  
 Website Address: <http://www.bbs.ca.gov>



**Request for Appeal Before the Continuing Education Appeals Committee**

Provider Applicant Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

**The decision of the Continuing Education Appeals Committee is final. The hearing will take place at the next Board Meeting. You will be notified by mail \_\_\_\_ days prior to the meeting of the date, time, and location of the meeting.**

I hereby acknowledge receipt of the above referenced denial notice and notification of my right to appeal the denial. I hereby request:

- ☐ A FORMAL APPEAL HEARING with the Continuing Education Appeals Committee, in accordance with Section 1887.8 (b) of Title 16 of the California Code of Regulations.

The Denial of the Continuing Education Provider Application is appealed for the following reason(s):  
 (Attach extra pages if necessary)

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Please indicate whether or not you will be represented by counsel**

\_\_\_\_\_  
 Name of CE Coordinator/Provider (please print)

\_\_\_\_\_  
 Attorney's Name

\_\_\_\_\_  
 Signature of CE Coordinator/Provider

\_\_\_\_\_  
 Attorney's Address

\_\_\_\_\_  
 Telephone Number

\_\_\_\_\_  
 City State Zip

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Attorney's Telephone Number

\_\_\_\_\_  
 City State Zip

\_\_\_\_\_  
 Date

# ATTACHMENT 14



**BOARD OF BEHAVIORAL SCIENCES**  
1625 North Market Blvd, Ste 200 Sacramento, CA 95834-1924  
Telephone (916) 574-7830  
TDD (916) 322-1700  
Website Address: <http://www.bbs.ca.gov>



**Request for Appeal Before the Continuing Education Appeals Committee**

Provider Applicant Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

**The decision of the Continuing Education Appeals Committee is final. The hearing will take place at the next Board Meeting. You will be notified by mail \_\_\_\_ days prior to the meeting of the date, time, and location of the meeting.**

I acknowledge receipt of the above referenced revocation notice and notification of my right to appeal the denial. I hereby request:

- ☐ A FORMAL APPEAL HEARING with the Continuing Education Appeals Committee, in accordance with Section 1887.8 (b) of Title 16 of the California Code of Regulations.

The Revocation of the Continuing Education Provider Approval is appealed for the following reason(s): (Attach extra pages if necessary)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Please indicate whether or not you will be represented by counsel**

\_\_\_\_\_  
Name of CE Coordinator/Provider (please print)

\_\_\_\_\_  
Attorney's Name

\_\_\_\_\_  
Signature of CE Coordinator/Provider

\_\_\_\_\_  
Attorney's Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Address

\_\_\_\_\_  
Attorney's Telephone Number

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Date



# ATTACHMENT 15



**BOARD OF BEHAVIORAL SCIENCES**  
1625 North Market Blvd, Ste 200 Sacramento, CA 95834-1924  
Telephone (916) 574-7830  
TDD (916) 322-1700  
Website Address: <http://www.bbs.ca.gov>



CERTIFIED MAIL

June 14, 2006

<Provider Name>  
<Address Line1>  
<Address Line2>

RE: <Case Number>

Dear <Provider Name/CE Coordinator>:

The Board of Behavioral Sciences acknowledges receipt of your request for a hearing with the Continuing Education Appeals Committee. Pursuant to Section 1887.8 (b) of the California Code of Regulations, this hearing will take place at the next available Board Meeting.

You are advised that the appeal hearing for <revocation of approval/denial of application> will take place in front of the Continuing Education Appeals Committee at the following date, time, and location: \_\_\_\_\_.

If you have questions, please contact me at (916) 574-7869.

Sincerely,

Jason Reinhardt  
Continuing Education/Enforcement Technician

# ATTACHMENT 16



**BOARD OF BEHAVIORAL SCIENCES**  
1625 North Market Blvd, Ste 200 Sacramento, CA 95834-1924  
Telephone (916) 574-7830  
TDD (916) 322-1700  
Website Address: <http://www.bbs.ca.gov>



**CERTIFIED MAIL**

June 14, 2006

<Provider Name>  
<Address Line1>  
<Address Line2>

RE: Decision in the Matter of the Denial of the Continuing Education Provider Application for:  
<PROVIDER NAME>, PCE Applicant, Case No: AP-XXXX-XXX

Dear Applicant:

It is the final decision of the Board of Behavioral Sciences Continuing Education Appeals Committee to approve your application to become a Continuing Education provider. Your new PCE number is: \_\_\_\_\_. The actual certificate will follow in the mail in approximately 3 weeks.

Please be advised that pursuant to California Code of Regulations Section 1887.12 (c) "The Board may audit the course records of a provider to ensure compliance with the Board's continuing education requirements." A copy of the Laws and Regulations pertaining to Continuing Education providers has been enclosed for your review.

Sincerely,

Jason Reinhardt  
Continuing Education Technician

Enclosures: Copy of CE Laws and Regulations

# ATTACHMENT 17



**BOARD OF BEHAVIORAL SCIENCES**  
1625 North Market Blvd, Ste 200 Sacramento, CA 95834-1924  
Telephone (916) 574-7830  
TDD (916) 322-1700  
Website Address: <http://www.bbs.ca.gov>



CERTIFIED MAIL

June 14, 2006

<Provider Name>  
<Address Line1>  
<Address Line2>

RE: In the Matter of the Denial of the Continuing Education Provider Application For:  
<PROVIDER NAME>, PCE Applicant, Case No: AP-XXXX-XXX

Dear Applicant:

It is the final decision of the Board of Behavioral Sciences Continuing Education Appeals Committee to uphold the denial of your Continuing Education Provider Application pursuant to Section 1887.8 of Title 16 of the California Code of Regulations.

The earliest date for which you may reapply for approval as a Provider for Continuing Education is \_\_\_\_\_.

Sincerely,

Name of Official Signer

# ATTACHMENT 18



**BOARD OF BEHAVIORAL SCIENCES**  
1625 North Market Blvd, Ste 200 Sacramento, CA 95834-1924  
Telephone (916) 574-7830  
TDD (916) 322-1700  
Website Address: <http://www.bbs.ca.gov>



CERTIFIED MAIL

June 14, 2006

<Provider Name>  
<Address Line1>  
<Address Line2>

RE: Decision in the Matter of the Revocation of the Continuing Education Provider Approval for:  
<PROVIDER NAME>, PCE <Number>, Case No: CE-XXXX-XXX

Dear <Provider Name>:

It is the final decision of the Board of Behavioral Sciences Continuing Education Appeals Committee to reinstate the approval status for PCE <number>. PCE \_\_\_\_\_ is valid until \_\_\_\_\_. You will receive a renewal notice 105 days before the expiration date listed above. Should you fail to renew the provider approval, your approval status will be automatically canceled, pursuant to Section 1887.7 of the California Code of Regulations.

Please be advised that pursuant to California Code of Regulations Section 1887.12 (c) "The Board may audit the course records of a provider to ensure compliance with the Board's continuing education requirements." A copy of the Laws and Regulations pertaining to Continuing Education providers has been enclosed for your review.

Sincerely,

Jason Reinhardt  
Continuing Education Technician

Enclosures: Copy of CE Laws and Regulations



# ATTACHMENT 19



**BOARD OF BEHAVIORAL SCIENCES**  
1625 North Market Blvd, Ste 200 Sacramento, CA 95834-1924  
Telephone (916) 574-7830  
TDD (916) 322-1700  
Website Address: <http://www.bbs.ca.gov>



CERTIFIED MAIL

June 14, 2006

<Provider Name>

<Address Line1>

<Address Line2>

RE: In the Matter of the Revocation of the Continuing Education Provider Approval for:  
<PROVIDER NAME>, PCE <Number>, Case No: CE-XXXX-XXX

Dear Applicant:

It is the final decision of the Board of Behavioral Sciences Continuing Education Appeals Committee to uphold the revocation of your Continuing Education Provider Approval pursuant to Section 1887.8 of Title 16 of the California Code of Regulations.

The earliest date for which you may reapply for approval as a Provider for Continuing Education is

\_\_\_\_\_.

Sincerely,

Name of Official Signer

**State of California  
Board of Behavioral Sciences**

**M e m o r a n d u m**

**To:** Consumer Protection Committee

**Date:** June 10, 2006

**From:** Rosanna Webb-Flores, Lead Analyst  
Enforcement Unit

**Telephone:** (916) 574-7864

**Subject: Agenda Item VIII – Enforcement Statistics**

---

The Enforcement Program's statistical reports are attached for the Committee's review and discussion.

**BOARD OF BEHAVIORAL SCIENCES**  
**BREAKDOWN OF ENFORCEMENT COMPLAINT ACTIVITY BY LICENSEE POPULATION**  
**2005 - 2006**  
**FISCAL YEAR <sup>(1)</sup>**

	OPENED	COMPLAINTS CLOSED	PENDING	Licenses In Effect (2)	% of Licenses to Pending Complaints
UNLICENSED	102	98	20	n/a	n/a
APPLICANTS	273	283	25	n/a	n/a
CE PROVIDERS	7	7	1	2213	0.05
DUAL LICENSEES (3)	12	11	1	n/a	n/a
DUAL W/BOP (3)	18	15	5	n/a	n/a
ASW	62	48	28	6520	0.43
LCSW	165	137	56	16354	0.34
IMF	116	94	59	9729	0.61
MFT	365	309	133	27806	0.48
LEP	10	8	2	1725	0.12
<b>TOTAL</b>	<b>1130</b>	<b>1010</b>	<b>330</b>	<b>64347</b>	<b>0.51</b>

Note: (1) Activity is from July 1, 2005 through May 31, 2006. Pending as of May 31, 2006.  
(2) Licenses in effect as of May 1, 2006. Does not include cancelled, revoked, or voluntary surrender of licenses.  
(3) Dual licensees are those that hold dual licenses with BBSE. Dual w/BOP are licensed with BBSE and the Board of Psychology.

**Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.**

Rpt. 010 Detail

	UL	AP	DL	DP	ASW	LCSW	IM	MFCC	LEP	CE	TOTAL
JULY	15	17	0	1	1	10	7	31	0	0	82
AUG	6	35	0	0	5	19	16	43	2	1	127
SEPT	10	38	4	3	2	21	8	34	2	0	122
OCT	8	33	3		8	7	14	23	3	2	101
NOV	6	23	2	2	7	19	10	36	1		106
DEC	5	16		2	4	10	8	28			73
JAN	11	24	1	3	6	23	10	44		3	125
FEB	13	17			6	8	9	23	1		77
MARCH	13	30	1	3	9	16	7	43			122
APRIL	8	21	0	0	6	13	12	25	0	0	85
MAY	7	19	1	4	8	19	15	35	1	1	110
JUNE											0
TOTAL	102	273	12	18	62	165	116	365	10	7	1130

**BOARD OF BEHAVIORAL SCIENCES**  
**BREAKDOWN OF ENFORCEMENT COMPLAINT CLOSURES BY TYPE**  
**2005 - 2006**

**FISCAL YEAR** <sup>(1)</sup>

	Unactionable (2)	Mediated (3)	Citation (4)	Violation (5)	Inv. (6)	District Attorney (7)	Rfrd Disp. (8)	Other (9)	TOTAL
UNLICENSED	86	0	1	9	0	0	0	2	98
APPLICANTS	2	0	0	262	0	0	2	17	283
CE PROVIDER	5	0	0	0	0	0	0	2	7
DUAL LICENSEES (10)	5	0	6	0	0	0	0	0	11
DUAL W/BOP (10)	6	1	8	0	0	0	0	0	15
ASW	17	0	1	20	1	0	2	7	48
LCSW	72	0	38	7	7	0	8	5	137
IMF	38	0	1	31	6	0	3	15	94
MFT	177	4	81	12	11	0	12	12	309
LEP	4	0	0	2	0	0	0	2	8
<b>TOTAL</b>	<b>412</b>	<b>5</b>	<b>136</b>	<b>343</b>	<b>25</b>	<b>0</b>	<b>27</b>	<b>62</b>	<b>1010</b>

**41% Unactionable**

**59% Actionable**

Note:

- (1) Closure activity is from July 1, 2005 through May 31, 2006.
- (2) Unactionable: Complaints which after review are closed no violation, insufficient evidence, no jurisdiction etc.
- (3) Mediated: Complaints which have no violation, but where a resolution was reached between parties.
- (4) Citation: Complaints in which after review, violations have been found and the complaint was closed upon the issuance of a citation.
- (5) Violation: Complaints which after review, violations have been found and were closed upon the issuance of a cease and desist or warning letter.
- (6) Inv.: Complaints which were closed after an investigation was conducted.
- (7) District Attorney: Complaints which, after review, a determination is made that the matter should be referred to the DA's office.
- (8) Rfrd Disp: Complaints which are referred directly to the Attorney General's office for disciplinary action (no investigation was required).
- (9) Other: Complaints closed in any manner which does not fit within one of the other categories.
- (10) Dual licensees are those that hold dual licenses with BBSE. Dual w/BOP are licensed with BBSE and the Board of Psychology.

**Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.**

**BOARD OF BEHAVIORAL SCIENCES**  
**CATEGORY OF PENDING COMPLAINTS**  
**As of May 31, 2006**

AGENCY CATEGORY	CE	UL	AP	DL	DP	AS	LC	IM	MF	LEP	TOTAL
Fraud	0	0	0	0	0	0	0	0	0	0	0
Fraudulent License	0	0	1	0	0	0	0	0	0	0	1
Insurance, Medi-Cal	0	0	0	0	0	0	0	0	0	0	0
Non-Jurisdictional	0	0	0	0	0	1	0	2	0	0	3
Custody	0	0	0	0	1	0	4	0	8	0	13
Fee Disputes	0	0	0	0	0	0	0	0	1	0	1
Exempt from licensure	0	1	0	0	0	0	0	0	0	0	1
Negligence	0	0	0	0	0	0	0	0	1	0	1
Beyond Scope	0	0	0	0	0	0	0	0	0	0	0
Dual Relationship	0	0	0	0	0	0	0	0	0	0	0
Abandonment	0	0	0	0	0	0	1	0	0	0	1
Improper Supervision	0	0	0	0	1	0	3	0	9	0	13
Misdiagnosis	0	0	0	0	0	0	0	0	0	0	0
Failure/Report Abuse	0	0	0	0	0	0	0	0	1	0	1
Aiding & Abetting	0	0	0	0	0	0	0	0	1	0	1
Other	0	0	0	0	0	0	0	0	1	0	1
Mental Illness	0	0	0	0	0	0	0	0	0	0	0
Self Use Drugs/Alcohol	0	0	0	0	0	0	0	0	0	0	0
Conviction of Crime	0	0	4	0	0	21	6	27	13	1	72
Unprofessional Conduct	0	0	0	0	0	3	25	13	55	1	97
Sexual Misconduct	0	0	0	0	2	0	0	3	7	0	12
Breach of Confidentiality	0	0	0	0	0	0	2	0	5	0	7
Emotional/Phys. Harm	0	0	0	0	0	0	0	1	0	0	1
Advertising / Misrepresentation	0	5	0	0	0	1	1	4	2	0	13
Unlicensed Practice	1	13	0	0	0	1	0	4	0	0	19
Repressed Memory	0	0	0	0	0	0	0	0	0	0	0
Third Party Complaint	0	1	0	0	0	1	2	5	1	0	10
Unsafe/Sanitary Conditions	0	0	0	0	0	0	0	0	0	0	0
Discipline by Another State	0	0	1	0	0	0	0	0	1	0	2
Criminal Convictions - Renewal Reported	0	0	0	0	0	0	0	0	1	0	1
Non Compliance with CE Audit	0	0	0	1	1	0	12	0	26	0	40
Applicant Referral for Criminal Conviction	0	0	19	0	0	0	0	0	0	0	19
Subvert Licensing Exam	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>1</b>	<b>20</b>	<b>25</b>	<b>1</b>	<b>5</b>	<b>28</b>	<b>56</b>	<b>59</b>	<b>133</b>	<b>2</b>	<b>330</b>

**Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.**

**BOARD OF BEHAVIORAL SCIENCES**  
**BREAKDOWN OF ENFORCEMENT ACTIVITY - CASES AT THE AG'S OFFICE**  
**BY LICENSEE POPULATION**  
**2005 - 2006 FISCAL YEAR <sup>(1)</sup>**

	<b>PENDING</b>	<b>Licenses In Effect (2)</b>	<b>% of Licenses to Pending Cases</b>
UNLICENSED	0	n/a	n/a
APPLICANTS	3	n/a	n/a
SUSEQUENT DISP. (3)	1	n/a	n/a
DUAL LICENSEES (4)	1	n/a	n/a
DUAL W/BOP (4)	4	n/a	n/a
CE PROVIDERS	0	2213	0.00
ASW	4	6520	0.06
LCSW	12	16354	0.07
IMF	7	9729	0.07
MFT	23	27806	0.08
LEP	0	1725	0.00
<b>TOTAL</b>	<b>55</b>	<b>64347</b>	<b>0.09</b>

Note: (1) Pending as of May 31, 2006.

(2) Licenses in effect as of May 1, 2006. Does not include cancelled, revoked, or voluntary surrender of licenses.

(3) Subsequent Discipline for violation of probation.

(4) Dual licensees are those that hold dual licenses with BBSE. Dual w/BOP are licensed with BBSE and the Board of Psychology.

**Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.**



**BOARD OF BEHAVIORAL SCIENCES**  
**CATEGORY TYPES OF DISCIPLINARY ACTION TAKEN**  
**2005 - 2006**  
**FISCAL YEAR \***

		MFT IMF	LCSW AWS	LEP	APPLICANT
<b>REVOC. STAYED: PROB ONLY</b>					
Aiding and Abetting	1	1			
Sexual Misconduct	1	1			
Conviction of a Crime	1				1
<b>Subtotal</b>	<b>3</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>1</b>
<b>REVOKED</b>					
Improper Supervision	1		1		
Conviction of a Crime	3	3			
Sexual Misconduct	2	1	1		
<b>Subtotal</b>	<b>6</b>	<b>4</b>	<b>2</b>	<b>0</b>	<b>0</b>
<b>SURRENDER OF LICENSE</b>					
Unprofessional Conduct	2	1	1		
Mental Illness	1	1			
Emotional / Physical Harm	2	1	1		
Sexual Misconduct	2	1	1		
Conviction of a Crime	1	1			
<b>Subtotal</b>	<b>8</b>	<b>5</b>	<b>3</b>	<b>0</b>	<b>0</b>
<b>TOTAL</b>	<b>17</b>	<b>11</b>	<b>5</b>	<b>0</b>	<b>1</b>

\* Time frame: July 1, 2005 through May 31, 2006

**Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.**

6/14/2006

## BOARD OF BEHAVIORAL SCIENCES CITATIONS ISSUED BY CATEGORY

	01/02	02/03	03/04	04/05	05/06*
<b>Agency Category Types</b>					
Improper Supervision		1	1	2	
Aiding & Abetting					1
Failure/Report Abuse		1	1		
Breach of Confidence	1	2	6	5	5
Advertising/Misrepresentation	1	1	1	1	
Unlicensed Practice	3	4	3	7	2
Failure Report Conviction on Renewal		2			
Non Compliance with CE Audit	24	12	6	44	128
Failure Report Conviction on Application		1		1	1
Subvert Licensing Exam			1		
Practicing Beyond Scope				1	
Client Abandonment					1
Unprofessional Conduct				2	2
<b>TOTAL</b>	<b>29</b>	<b>24</b>	<b>19</b>	<b>63</b>	<b>140</b>

	01/02	02/03	03/04	04/05	05/06*
<b>Number Citations Ordered</b>	29	24	19	63	140
<b>Fines Assessed</b>					\$54,850.00
<b>Fines Collected (1)</b>					\$36,450.00

(1) May reflect collection of fines ordered in previous fiscal years.

\* 05/06 Fiscal Year through: May 31, 2006

**Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.**

6/14/2006

## BOARD OF BEHAVIORAL SCIENCES RECOVERY COSTS

	01/02	02/03	03/04	04/05	05/06*
Number Cases Ordered	21	12	9	12	11
<b>Total Amount Ordered</b>	<b>\$130,772.00</b>	<b>\$36,258.50</b>	<b>\$25,497.50</b>	<b>\$73,791.25</b>	<b>\$47,751.25</b>
Stipulation - Revocation (1)					\$1,320.00
Stipulation - Voluntary Surrender (2)					\$36,008.25
Stipulation - Probation					\$1,500.00
Decision - Revocation					\$6,410.50
Decision - Probation					\$2,512.50
<b>Total Amount Collected (3)</b>	<b>\$45,544.76</b>	<b>\$57,867.25</b>	<b>\$20,600.08</b>	<b>\$23,791.89</b>	<b>\$14,968.57</b>
Intercepted by FTB Program					\$314.73
Cost Collected in Payments					\$7,858.34
Cost Collected in Lump Sum					\$6,795.50

(1) Cost recovery only required if the respondent pursues reinstatement (may never be recovered).

(2) Cost recovery only required if the respondent reapplies for licensure (may never be recovered).

(3) May reflect collection of cost recovery ordered in previous fiscal years.

\* 05/06 Fiscal Year through: May 31, 2006

6/14/2006

**BOARD OF BEHAVIORAL SCIENCES  
REIMBURSEMENT OF PROBATION PROGRAM**

	01/02	02/03	03/04	04/05	05/06 *
# Cases Ordered			1	3	3
Amount Ordered Per Year (\$1,200)			\$6,000.00	\$16,800.00	\$14,400.00
Amount Collected			0	\$1,900.00	\$3,300.00

\* 05/06 Fiscal Year through: May 31, 2006

**Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.**

**BOARD OF BEHAVIORAL SCIENCES  
ENFORCEMENT AGING DATA  
2005 - 2006 FISCAL YEAR <sup>(1)</sup>**

	<b>0-3 mo</b>	<b>4-6 mo</b>	<b>7-9 mo</b>	<b>10-12 mo</b>	<b>1-2 years</b>	<b>2-3 years</b>	<b>Over 3 Years</b>	<b>Total</b>
Pending Complaints <sup>(2)</sup>	201	51	21	15	6	0	0	294
Pending Investigations <sup>(3)</sup>	7	12	6	4	5	0	0	34
<b>Total Pending Complaints (Includes Inv) <sup>(4)</sup></b>	<b>208</b>	<b>63</b>	<b>27</b>	<b>19</b>	<b>11</b>	<b>0</b>	<b>0</b>	<b>328</b>
Pending Cases at the AG - Pre Accusation <sup>(5)</sup>	13	6	3	0	2	1	0	25
Pending Cases at the AG - Post Accusation <sup>(6)</sup>	9	10	2	2	5	0	2	30
<b>Total Pending Cases at the AG's Office</b>	<b>22</b>	<b>16</b>	<b>5</b>	<b>2</b>	<b>7</b>	<b>1</b>	<b>2</b>	<b>55</b>

**(1)** Pending as of May 31, 2006.

**(2)** Pending Complaints are those complaints which are not currently being investigated by the Division of Investigation.

**(3)** Pending Investigations are those complaints which are being investigated by the Division of Investigation.

**(4)** Total Pending Complaints includes pending complaints and pending investigations.

**(5)** Pre Accusation are those pending cases at the AG's office where an accusation or statement of issues has not been filed yet.

**(6)** Post Accusation are those pending cases at the AG's office where a accusation or statement of issues has been filed.

**Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.**

# BOARD OF BEHAVIORAL SCIENCES

## Overview of Enforcement Activity

Fiscal Years	01/02	02/03	03/04	04/05	05/06 *
<b>Complaints / Cases Opened</b>					
Complaints Received	493	514	560	626	723
Criminal Convictions Received	397	384	383	384	406
<b>Total Complaints Received</b>	<b>890</b>	<b>898</b>	<b>943</b>	<b>1010</b>	<b>1129</b>
Investigations Opened	42	25	11	25	43
Cases Sent to AG	31	41	17	25	45
<b>Filings</b>					
Citations Issued	30	24	19	63	140
Accusations Filed	27	17	22	17	26
Statement of Issues (SOI's) filed	7	4	4	2	1
Temporary Restraining Order	0	0	0	0	0
Interim Suspension Orders	0	0	1	0	1
<b>Withdrawals/Dismissals</b>					
Accusations Withdrawn or Dismissed	3	1	0	1	0
SOI's Withdrawn or Dismissed	1	1	0	0	0
Declined by the AG	0	7	3	1	1
<b>Disciplinary Decision Outcomes</b>					
Revoked	14	4	10	4	6
Revoked, Stayed, Susp & Probation	2	2	1	2	0
Revoked, Stayed, Probation	12	6	5	2	3
Surrender of License	6	7	7	7	8
Suspension	0	0	0	0	0
Susp., Stayed, Susp & Prob	0	0	0	0	0
Susp., Stayed Probation	0	1	0	0	0
Susp & Prob Only	0	0	0	0	0
License Probation Only	1	0	0	0	0
Reprimand / Reapproval	0	1	0	0	0
Other Decisions	0	0	0	0	0
<b>Total Decisions</b>	<b>35</b>	<b>21</b>	<b>23</b>	<b>15</b>	<b>17</b>
<b>Decisions (By Violation Type)</b>					
Fraud	1	1	0	1	0
Health & Safety	0	0	0	1	1
Sexual Misconduct	13	5	5	5	5
Competence / Negligence	1	2	9	2	2
Personal Conduct	7	7	3	4	5
Unprofessional Conduct	8	4	4	2	4
Unlicensed Activity	0	0	0	0	0
Other	0	0	0	0	0
Violation of Probation	5	2	2	0	0

\* Fiscal Year Period: 7/1/05 through 05/31/06.

**Note: These statistics are for informational purposes only and should not be used as the sole source to analyze the Board's enforcement program.**

## Memorandum

**To:** Consumer Protection Committee                      **Date:** June 14, 2006  
**From:** Rosanna Webb-Flores, Lead Analyst                      **Telephone:** (916) 574-7864  
Enforcement Unit  
**Subject: Agenda Item IX Review Expert Witness Selection Criteria**

---

### Background

Expert Witnesses are marriage and family therapists, licensed educational psychologists, and licensed clinical social workers that perform case review for the Board's Enforcement Program, and sometimes testify at administrative hearings. The Expert Witness Program is an impartial professional means by which to evaluate complaints received by the Board against licensees and registrants. Its effectiveness is vital for fulfilling our legislative mandate to protect the California public's health, safety and welfare.

To ensure that enforcement cases are assigned to the most qualified expert, the Enforcement Unit staff is currently revising the Expert Guidelines, developing a training manual, and putting together a training curriculum for an expert training session tentatively scheduled for early November. As a first step in improving the expert witness selection criteria, staff developed a questionnaire to aid in identifying the experts' areas of expertise and forensic experience. On June 5, 2006, the questionnaire was sent to our existing expert pool, as well as those experts recently recruited.

Additionally, to meet the objective of improving and expanding the Expert Witness Program, tasks include review and revision of the procedures for recruitment, develop an application packet, and draft a Board selection and assignment policy.

### Attachment

- A. Questionnaire
- B. Areas of Expertise - Checklist

# ATTACHMENT A



**BOARD OF BEHAVIORAL SCIENCES  
EXPERT REVIEWER  
EXPERTISE QUESTIONNAIRE**

This questionnaire is designed to elicit specific information regarding your qualifications to be an expert reviewer for the Board of Behavioral Sciences. Please answer the questions below and indicate your area(s) of expertise on page 2.

◆ What is your clientele base?

- ☐ Children
- ☐ Adolescents
- ☐ Adults
- ☐ Elderly

- ☐ Couples
- ☐ Groups
- ☐ Other \_\_\_\_\_

◆ Do you perform psychological evaluations and testing? Yes ☐ No ☐

◆ Do you have a thorough understanding of the *Statutes and Regulations Relating to the Practice of:*

*Marriage and Family Therapy*

Yes ☐ No ☐

*Licensed Clinical Social Work*

Yes ☐ No ☐

*Licensed Educational Psychology*

Yes ☐ No ☐

◆ Do you have a thorough understanding of:

*The Code of Ethical Standards for Marriage and Family Therapist*

Yes ☐ No ☐

*The NASW Code of Ethics*

Yes ☐ No ☐

*The Ethical Principles of Psychologists and Code of Conduct*

Yes ☐ No ☐

◆ Do you have experience in testifying as an expert?

Yes ☐ No ☐

If yes, please indicate the number of times and the types of cases.

\_\_\_\_\_

\_\_\_\_\_

◆ Describe your practice in detail, including type of setting and breadth of practice:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

◆ Are you fluent in a language other than English?

Yes ☐ No ☐

If yes, which? \_\_\_\_\_

# ATTACHMENT B

## Areas of Expertise

The following is a list of areas of practice in which one may possess expertise. Please review the list carefully and check the area(s) in which you have demonstrated expertise, as evident in your curriculum vitae.

- |   |  |
|---|--|
| <ul style="list-style-type: none"><li><input type="checkbox"/> <b>GENERAL ETHICS</b><ul style="list-style-type: none"><li><input type="checkbox"/> Competence</li><li><input type="checkbox"/> Conflict of Interest</li><li><input type="checkbox"/> Confidentiality/Privilege</li><li><input type="checkbox"/> Informed Consent Issues</li><li><input type="checkbox"/> Multiple Role Relationships</li><li><input type="checkbox"/> Dual Relationships</li><li><input type="checkbox"/> Termination of Therapy</li><li><input type="checkbox"/> Transference/Counter-transference</li><li><input type="checkbox"/> Record Keeping/Access to Patient Records</li></ul></li><li><input type="checkbox"/> <b>SEXUAL MISCONDUCT</b><ul style="list-style-type: none"><li><input type="checkbox"/> Clients</li><li><input type="checkbox"/> Former Clients</li></ul></li><li><input type="checkbox"/> <b>SUBSTANCE/ALCOHOL ABUSE</b><ul style="list-style-type: none"><li><input type="checkbox"/> Evaluation</li><li><input type="checkbox"/> Treatment</li></ul></li><li><input type="checkbox"/> <b>PSYCHOPHARMACOLOGY</b></li><li><input type="checkbox"/> <b>ETHNIC DIVERSITY</b></li><li><input type="checkbox"/> <b>CULTURAL DIVERSITY</b></li><li><input type="checkbox"/> <b>TRANSGENDER ISSUES</b></li><li><input type="checkbox"/> <b>GAY AND LESBIAN ISSUES</b></li><li><input type="checkbox"/> <b>HIV/AIDS</b></li><li><input type="checkbox"/> <b>SEXUAL ABUSE</b><ul style="list-style-type: none"><li><input type="checkbox"/> Child</li><li><input type="checkbox"/> Adolescent</li><li><input type="checkbox"/> Adult</li></ul></li><li><input type="checkbox"/> <b>DOMESTIC VIOLENCE</b></li><li><input type="checkbox"/> <b>FAMILY COURT SERVICES</b><ul style="list-style-type: none"><li><input type="checkbox"/> Special Master</li><li><input type="checkbox"/> Custody Evaluations</li><li><input type="checkbox"/> Co-parenting Counseling</li><li><input type="checkbox"/> Mediation</li><li><input type="checkbox"/> Visitation Monitor</li></ul></li></ul> | <ul style="list-style-type: none"><li><input type="checkbox"/> <b>PSYCHOTHERAPY</b></li><li><input type="checkbox"/> <b>PSYCHOLOGICAL TESTING</b></li><li><input type="checkbox"/> <b>PSYCHOLOGICAL EVALUATIONS</b></li><li><input type="checkbox"/> <b>EDUCATIONAL COUNSELING (LEP)</b></li><li><input type="checkbox"/> <b>NEUROPSYCHOLOGY</b></li><li><input type="checkbox"/> <b>BIOFEEDBACK</b></li><li><input type="checkbox"/> <b>HYPNOSIS</b></li><li><input type="checkbox"/> <b>DISSOCIATIVE IDENTITY DISORDERS</b></li><li><input type="checkbox"/> <b>BORDERLINE PERSONALITY DISORDERS</b></li><li><input type="checkbox"/> <b>BIPOLAR DISORDER</b></li><li><input type="checkbox"/> <b>SUPERVISOR ISSUES</b></li><li><input type="checkbox"/> <b>REPPRESSED MEMORY</b></li><li><input type="checkbox"/> <b>RITUAL ABUSE</b></li><li><input type="checkbox"/> <b>ALIEN ABDUCTION</b></li><li><input type="checkbox"/> <b>INTERNET/TELEPHONE THERAPY</b></li><li><input type="checkbox"/> <b>BILLING</b><ul style="list-style-type: none"><li><input type="checkbox"/> Private Pay</li><li><input type="checkbox"/> Managed Care</li><li><input type="checkbox"/> Medi-care/Medi-cal</li></ul></li><li><input type="checkbox"/> <b>WORKERS' COMPENSATION EVALUATIONS</b></li><li><input type="checkbox"/> <b>DISABILITY/INSURANCE EVALUATIONS</b></li><li><input type="checkbox"/> <b>FITNESS FOR DUTY EVALUATIONS</b></li><li><input type="checkbox"/> <b>REPORTING AND LAW</b><ul style="list-style-type: none"><li><input type="checkbox"/> Tarasoff</li><li><input type="checkbox"/> Child Abuse Reporting</li><li><input type="checkbox"/> Elder or Dependent Adult Abuse Reporting</li></ul></li><li><input type="checkbox"/> <b>OTHER</b> (i.e., art therapy, touch therapy, music therapy, drama therapy, EMDR)</li></ul> <div style="border-top: 1px solid black; height: 15px; width: 100%;"></div> <div style="border-top: 1px solid black; height: 15px; width: 100%;"></div> |
|---|--|

***I declare under penalty of perjury under the laws of the State of California that all the information submitted on this form and on any accompanying attachments submitted is true and correct.***

---

**Date**

---

**Signature of Applicant**

## Memorandum

**To:** Consumer Protection Committee  
**From:** Christy Berger  
Legislation Analyst  
**Date:** June 14, 2006  
**Telephone:** (916) 574-7847  
**Subject:** **Agenda Item X – Review and Discuss Prior Recommendation to the Board to Sponsor Legislation to Add Violations of the Health and Safety Code to the Definition of Unprofessional Conduct**

---

### Background

#### *Patient Records/Health and Safety Code*

At the April 17, 2006 Consumer Protection Committee Meeting, the Committee reviewed the Board's unprofessional conduct statutes. The Committee was informed that the Board receives numerous complaints regarding licensees who decline to provide client records pursuant to Health and Safety Code (HSC) Section 123110. Although the Enforcement Analysts attempt to assist clients, there is no recourse for noncompliance because the Board does not have a provision in law that requires licensees to provide the records.

A proposal was brought before the Board at its May 18, 2006 meeting that would have added a violation of HSC Section 123110 to the definition of unprofessional conduct in each of the three practice acts. At this meeting, the suggestion was made to instead reference the chapter of the HSC that pertains to the release of patient records, as there are other applicable sections. This chapter is Chapter 1 of Part 1 of Division 106, of the HSC, which includes Section 123100, et al.

#### *Telemedicine*

In 1996, California passed legislation pertaining to the practice of "telemedicine" (Business and Professions Code [BPC] Section 2290.5). In 1999, the statute was amended to require marriage and family therapists (MFT) and clinical social workers (LCSW) to comply with the telemedicine statute. The Board has been treating BPC Section 2290.5 as part of our law even though it is part of the Medical Practice Act. However, it would be difficult for the Board to take enforcement action under a provision that is not directly a part of the Board's law.

#### *Regulations vs. Statute*

Staff reviewed the regulations pertaining to unprofessional conduct and noted that the regulations duplicate the statute, with a couple of exceptions. The failure to report abuse of a child, elder, or dependent adult are in MFT and LCSW regulations, but are not in statute. To have a consistent, cohesive unprofessional conduct law, it is preferable to list all instances of potential unprofessional conduct in one place.

### Recommendation

Amend unprofessional conduct statutes for MFTs and LCSWs (BPC Sections 4982 and 4992.3, respectively) as follows:

- Delete the regulation for failure to comply with child, elder, or dependent adult abuse reporting requirements and add it to statute.

- Add to statute the failure to comply with Division 106, Part 1, Chapter 1 of the HSC pertaining to release of records
- Add to statute the failure to comply with telemedicine requirements of BPC Section 2290.5
- Make minor editorial changes

Amend unprofessional conduct statutes for LEPs (BPC Section 4986.70) as follows:

- Add to statute the failure to comply with Division 106, Part 1, Chapter 1 of the HSC pertaining to release of records

Attachments

- A. Proposed Language
- B. Division 106, Part 1, Chapter 1 of the HSC
- C. BPC Section 2290.5, Telemedicine

# ATTACHMENT A

**DIVISION 106, PART 1, CHAPTER 1 OF THE HEALTH AND SAFETY CODE  
SECTION 123100-123149.5**

123100. The Legislature finds and declares that every person having ultimate responsibility for decisions respecting his or her own health care also possesses a concomitant right of access to complete information respecting his or her condition and care provided. Similarly, persons having responsibility for decisions respecting the health care of others should, in general, have access to information on the patient's condition and care. It is, therefore, the intent of the Legislature in enacting this chapter to establish procedures for providing access to health care records or summaries of those records by patients and by those persons having responsibility for decisions respecting the health care of others.

123105. As used in this chapter:

- (a) "Health care provider" means any of the following:
  - (1) A health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.
  - (2) A clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2.
  - (3) A home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2.
  - (4) A physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or pursuant to the Osteopathic Act.
  - (5) A podiatrist licensed pursuant to Article 22 (commencing with Section 2460) of Chapter 5 of Division 2 of the Business and Professions Code.
  - (6) A dentist licensed pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code.
  - (7) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.
  - (8) An optometrist licensed pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code.
  - (9) A chiropractor licensed pursuant to the Chiropractic Initiative Act.
  - (10) A marriage and family therapist licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.
  - (11) A clinical social worker licensed pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code.
  - (12) A physical therapist licensed pursuant to Chapter 5.7 (commencing with Section 2600) of Division 2 of the Business and Professions Code.
- (b) "Mental health records" means patient records, or discrete portions thereof, specifically relating to evaluation or treatment of a mental disorder. "Mental health records" includes, but is not limited to, all alcohol and drug abuse records.
- (c) "Patient" means a patient or former patient of a health care provider.
- (d) "Patient records" means records in any form or medium maintained by, or in the custody or control of, a health care provider relating to the health history, diagnosis, or condition of a patient, or relating to treatment provided or proposed to be provided to the patient. "Patient records" includes only records pertaining to the patient requesting the records or whose representative requests the records. "Patient records" does not include information given in confidence to a health care provider by a person other than another health care provider or the patient, and that material may be removed from any records prior to inspection or copying under Section 123110 or 123115. "Patient records" does not include information contained in aggregate form, such as indices, registers, or logs.

(e) "Patient's representative" or "representative" means a parent or the guardian of a minor who is a patient, or the guardian or conservator of the person of an adult patient, or the beneficiary or personal representative of a deceased patient.

(f) "Alcohol and drug abuse records" means patient records, or discrete portions thereof, specifically relating to evaluation and treatment of alcoholism or drug abuse.

123110. (a) Notwithstanding Section 5328 of the Welfare and Institutions Code, and except as provided in Sections 123115 and 123120, any adult patient of a health care provider, any minor patient authorized by law to consent to medical treatment, and any patient representative shall be entitled to inspect patient records upon presenting to the health care provider a written request for those records and upon payment of reasonable clerical costs incurred in locating and making the records available. However, a patient who is a minor shall be entitled to inspect patient records pertaining only to health care of a type for which the minor is lawfully authorized to consent. A health care provider shall permit this inspection during business hours within five working days after receipt of the written request. The inspection shall be conducted by the patient or patient's representative requesting the inspection, who may be accompanied by one other person of his or her choosing.

(b) Additionally, any patient or patient's representative shall be entitled to copies of all or any portion of the patient records that he or she has a right to inspect, upon presenting a written request to the health care provider specifying the records to be copied, together with a fee to defray the cost of copying, that shall not exceed twenty-five cents (\$0.25) per page or fifty cents (\$0.50) per page for records that are copied from microfilm and any additional reasonable clerical costs incurred in making the records available.

The health care provider shall ensure that the copies are transmitted within 15 days after receiving the written request.

(c) Copies of X-rays or tracings derived from electrocardiography, electroencephalography, or electromyography need not be provided to the patient or patient's representative under this section, if the original X-rays or tracings are transmitted to another health care provider upon written request of the patient or patient's representative and within 15 days after receipt of the request. The request shall specify the name and address of the health care provider to whom the records are to be delivered. All reasonable costs, not exceeding actual costs, incurred by a health care provider in providing copies pursuant to this subdivision may be charged to the patient or representative requesting the copies.

(d) (1) Notwithstanding any provision of this section, and except as provided in Sections 123115 and 123120, any patient or former patient or the patient's representative shall be entitled to a copy, at no charge, of the relevant portion of the patient's records, upon presenting to the provider a written request, and proof that the records are needed to support an appeal regarding eligibility for a public benefit program. These programs shall be the Medi-Cal program, social security disability insurance benefits, and Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled (SSI/SSP) benefits. For purposes of this subdivision, "relevant portion of the patient's records" means those records regarding services rendered to the patient during the time period beginning with the date of the patient's initial application for public benefits up to and including the date that a final determination is made by the public benefits program with which the patient's application is pending.

(2) Although a patient shall not be limited to a single request, the patient or patient's representative shall be entitled to no more than one copy of any relevant portion of his or her record free of charge.

(3) This subdivision shall not apply to any patient who is represented by a private attorney who is paying for the costs related to the patient's appeal, pending the outcome of that appeal.



For purposes of this subdivision, "private attorney" means any attorney not employed by a nonprofit legal services entity.

(e) If the patient's appeal regarding eligibility for a public benefit program specified in subdivision (d) is successful, the hospital or other health care provider may bill the patient, at the rates specified in subdivisions (b) and (c), for the copies of the medical records previously provided free of charge.

(f) If a patient or his or her representative requests a record pursuant to subdivision (d), the health care provider shall ensure that the copies are transmitted within 30 days after receiving the written request.

(g) This section shall not be construed to preclude a health care provider from requiring reasonable verification of identity prior to permitting inspection or copying of patient records, provided this requirement is not used oppressively or discriminatorily to frustrate or delay compliance with this section. Nothing in this chapter shall be deemed to supersede any rights that a patient or representative might otherwise have or exercise under Section 1158 of the Evidence Code or any other provision of law. Nothing in this chapter shall require a health care provider to retain records longer than required by applicable statutes or administrative regulations.

(h) This chapter shall not be construed to render a health care provider liable for the quality of his or her records or the copies provided in excess of existing law and regulations with respect to the quality of medical records. A health care provider shall not be liable to the patient or any other person for any consequences that result from disclosure of patient records as required by this chapter. A health care provider shall not discriminate against classes or categories of providers in the transmittal of X-rays or other patient records, or copies of these X-rays or records, to other providers as authorized by this section.

Every health care provider shall adopt policies and establish procedures for the uniform transmittal of X-rays and other patient records that effectively prevent the discrimination described in this subdivision. A health care provider may establish reasonable conditions, including a reasonable deposit fee, to ensure the return of original X-rays transmitted to another health care provider, provided the conditions do not discriminate on the basis of, or in a manner related to, the license of the provider to which the X-rays are transmitted.

(i) Any health care provider described in paragraphs (4) to (10), inclusive, of subdivision (a) of Section 123105 who willfully violates this chapter is guilty of unprofessional conduct. Any health care provider described in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 123105 that willfully violates this chapter is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100). The state agency, board, or commission that issued the health care provider's professional or institutional license shall consider a violation as grounds for disciplinary action with respect to the licensure, including suspension or revocation of the license or certificate.

(j) This section shall be construed as prohibiting a health care provider from withholding patient records or summaries of patient records because of an unpaid bill for health care services. Any health care provider who willfully withholds patient records or summaries of patient records because of an unpaid bill for health care services shall be subject to the sanctions specified in subdivision (i).

123111. (a) Any adult patient who inspects his or her patient records pursuant to Section 123110 shall have the right to provide to the health care provider a written addendum with respect to any item or statement in his or her records that the patient believes to be incomplete or incorrect. The addendum shall be limited to 250 words per alleged incomplete or incorrect item in the patient's record and shall clearly indicate in writing that the patient wishes the addendum to be made a part of his or her record.

(b) The health care provider shall attach the addendum to the patient's records and shall include that addendum whenever the health care provider makes a disclosure of the allegedly incomplete or incorrect portion of the patient's records to any third party.

(c) The receipt of information in a patient's addendum which contains defamatory or otherwise unlawful language, and the inclusion of this information in the patient's records, in accordance with subdivision (b), shall not, in and of itself, subject the health care provider to liability in any civil, criminal, administrative, or other proceeding.

(d) Subdivision (f) of Section 123110 and Section 123120 shall be applicable with respect to any violation of this section by a health care provider.

123115. (a) The representative of a minor shall not be entitled to inspect or obtain copies of the minor's patient records in either of the following circumstances:

(1) With respect to which the minor has a right of inspection under Section 123110.

(2) Where the health care provider determines that access to the patient records requested by the representative would have a detrimental effect on the provider's professional relationship with the minor patient or the minor's physical safety or psychological well-being. The decision of the health care provider as to whether or not a minor's records are available for inspection under this section shall not attach any liability to the provider, unless the decision is found to be in bad faith.

(b) When a health care provider determines there is a substantial risk of significant adverse or detrimental consequences to a patient in seeing or receiving a copy of mental health records requested by the patient, the provider may decline to permit inspection or provide copies of the records to the patient, subject to the following conditions:

(1) The health care provider shall make a written record, to be included with the mental health records requested, noting the date of the request and explaining the health care provider's reason for refusing to permit inspection or provide copies of the records, including a description of the specific adverse or detrimental consequences to the patient that the provider anticipates would occur if inspection or copying were permitted.

(2) The health care provider shall permit inspection by, or provide copies of the mental health records to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, or licensed clinical social worker, designated by request of the patient. Any marriage and family therapist registered intern, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, may not inspect the patient's mental health records or obtain copies thereof, except pursuant to the direction or supervision of a licensed professional specified in subdivision (f) of Section 4980.40 of the Business and Professions Code. Prior to providing copies of mental health records to a marriage and family therapist registered intern, a receipt for those records shall be signed by the supervising licensed professional. The licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, licensed clinical social worker, or marriage and family therapist registered intern to whom the records are provided for inspection or copying shall not permit inspection or copying by the patient.

(3) The health care provider shall inform the patient of the provider's refusal to permit him or her to inspect or obtain copies of the requested records, and inform the patient of the right to require the provider to permit inspection by, or provide copies to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, or licensed clinical social worker, designated by written authorization of the patient.

(4) The health care provider shall indicate in the mental health records of the patient whether the request was made under paragraph (2).

123120. Any patient or representative aggrieved by a violation of Section 123110 may, in addition to any other remedy provided by law, bring an action against the health care provider to enforce the obligations prescribed by Section 123110. Any judgment rendered in the action may, in the discretion of the court, include an award of costs and reasonable attorney fees to the prevailing party.

123125. (a) This chapter shall not require a health care provider to permit inspection or provide copies of alcohol and drug abuse records where, or in a manner, prohibited by Section 408 of the federal Drug Abuse Office and Treatment Act of 1972 (Public Law 92-255) or Section 333 of the federal Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (Public Law 91-616), or by regulations adopted pursuant to these federal laws. Alcohol and drug abuse records subject to these federal laws shall also be subject to this chapter, to the extent that these federal laws do not prohibit disclosure of the records. All other alcohol and drug abuse records shall be fully subject to this chapter.

(b) This chapter shall not require a health care provider to permit inspection or provide copies of records or portions of records where or in a manner prohibited by existing law respecting the confidentiality of information regarding communicable disease carriers.

123130. (a) A health care provider may prepare a summary of the record, according to the requirements of this section, for inspection and copying by a patient. If the health care provider chooses to prepare a summary of the record rather than allowing access to the entire record, he or she shall make the summary of the record available to the patient within 10 working days from the date of the patient's request. However, if more time is needed because the record is of extraordinary length or because the patient was discharged from a licensed health facility within the last 10 days, the health care provider shall notify the patient of this fact and the date that the summary will be completed, but in no case shall more than 30 days elapse between the request by the patient and the delivery of the summary. In preparing the summary of the record the health care provider shall not be obligated to include information that is not contained in the original record.

(b) A health care provider may confer with the patient in an attempt to clarify the patient's purpose and goal in obtaining his or her record. If as a consequence the patient requests information about only certain injuries, illnesses, or episodes, this subdivision shall not require the provider to prepare the summary required by this subdivision for other than the injuries, illnesses, or episodes so requested by the patient. The summary shall contain for each injury, illness, or episode any information included in the record relative to the following:

- (1) Chief complaint or complaints including pertinent history.
- (2) Findings from consultations and referrals to other health care providers.
- (3) Diagnosis, where determined.
- (4) Treatment plan and regimen including medications prescribed.
- (5) Progress of the treatment.
- (6) Prognosis including significant continuing problems or conditions.
- (7) Pertinent reports of diagnostic procedures and tests and all discharge summaries.
- (8) Objective findings from the most recent physical examination, such as blood pressure, weight, and actual values from routine laboratory tests.

(c) This section shall not be construed to require any medical records to be written or maintained in any manner not otherwise required by law.

(d) The summary shall contain a list of all current medications prescribed, including dosage, and any sensitivities or allergies to medications recorded by the provider.

(e) Subdivision (c) of Section 123110 shall be applicable whether or not the health care provider elects to prepare a summary of the record.

(f) The health care provider may charge no more than a reasonable fee based on actual time and cost for the preparation of the summary. The cost shall be based on a computation of the actual time spent preparing the summary for availability to the patient or the patient's representative. It is the intent of the Legislature that summaries of the records be made available at the lowest possible cost to the patient.

123135. Except as otherwise provided by law, nothing in this chapter shall be construed to grant greater access to individual patient records by any person, firm, association, organization, partnership, business trust, company, corporation, or municipal or other public corporation, or government officer or agency. Therefore, this chapter does not do any of the following:

(a) Relieve employers of the requirements of the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code).

(b) Relieve any person subject to the Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1 of the Insurance Code) from the requirements of that act.

(c) Relieve government agencies of the requirements of the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code).

123140. The Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) shall prevail over this chapter with respect to records maintained by a state agency.

123145. (a) Providers of health services that are licensed pursuant to Sections 1205, 1253, 1575 and 1726 have an obligation, if the licensee ceases operation, to preserve records for a minimum of seven years following discharge of the patient, except that the records of unemancipated minors shall be kept at least one year after the minor has reached the age of 18 years, and in any case, not less than seven years.

(b) The department or any person injured as a result of the licensee's abandonment of health records may bring an action in a proper court for the amount of damage suffered as a result thereof.

In the event that the licensee is a corporation or partnership that is dissolved, the person injured may take action against that corporation's or partnership's principal officers of record at the time of dissolution.

(c) Abandoned means violating subdivision (a) and leaving patients treated by the licensee without access to medical information to which they are entitled pursuant to Section 123110.

123147. (a) Except as provided in subdivision (b), all health facilities, as defined in Section 1250, and all primary care clinics that are either licensed under Section 1204 or exempt from licensure under Section 1206, shall include a patient's principal spoken language on the patient's health records.

(b) Any long-term health care facility, as defined in Section 1418, that already completes the minimum data set form as specified in Section 14110.15 of the Welfare and Institutions Code, including documentation of a patient's principal spoken language, shall be deemed to be in compliance with subdivision (a).

123148. (a) Notwithstanding any other provision of law, a health care professional at whose request a test is performed shall provide or arrange for the provision of the results of a clinical laboratory test to the patient who is the subject of the test if so requested by the patient, in oral or written form. The results shall be conveyed in plain language and in oral or written form, except the results may be conveyed in electronic form if requested by the patient and if deemed most appropriate by the health care professional who requested the test.

(b) (1) Consent of the patient to receive his or her laboratory results by Internet posting or other electronic means shall be obtained in a manner consistent with the requirements of Section 56.10 or 56.11 of the Civil Code. In the event that a health care professional arranges for the provision of test results by Internet posting or other electronic manner, the results shall be delivered to a patient in a reasonable time period, but only after the results have been reviewed by the health care professional. Access to clinical laboratory test results shall be restricted by the use of a secure personal identification number when the results are delivered to a patient by Internet posting or other electronic manner.

(2) Nothing in paragraph (1) shall prohibit direct communication by Internet posting or the use of other electronic means to convey clinical laboratory test results by a treating health care professional who ordered the test for his or her patient or by a health care professional acting on behalf of, or with the authorization of, the treating health care professional who ordered the test.

(c) When a patient requests to receive his or her laboratory test results by Internet posting, the health care professional shall advise the patient of any charges that may be assessed directly to the patient or insurer for the service and that the patient may call the health care professional for a more detailed explanation of the laboratory test results when delivered.

(d) The electronic provision of test results under this section shall be in accordance with any applicable federal law governing privacy and security of electronic personal health records. However, any state statute, if enacted, that governs privacy and security of electronic personal health records, shall apply to test results under this section and shall prevail over federal law if federal law permits.

(e) The test results to be reported to the patient pursuant to this section shall be recorded in the patient's medical record, and shall be reported to the patient within a reasonable time period after the test results are received at the offices of the health care professional who requested the test.

(f) Notwithstanding subdivisions (a) and (b), none of the following clinical laboratory test results and any other related results shall be conveyed to a patient by Internet posting or other electronic means:

- (1) HIV antibody test.
- (2) Presence of antigens indicating a hepatitis infection.
- (3) Abusing the use of drugs.
- (4) Test results related to routinely processed tissues, including skin biopsies, Pap smear tests, products of conception, and bone marrow aspirations for morphological evaluation, if they reveal a malignancy.

(g) Patient identifiable test results and health information that have been provided under this section shall not be used for any commercial purpose without the consent of the patient, obtained in a manner consistent with the requirements of Section 56.11 of the Civil Code.

(h) Any third party to whom laboratory test results are disclosed pursuant to this section shall be deemed a provider of administrative services, as that term is used in paragraph (3) of subdivision (c) of Section 56.10 of the Civil Code, and shall be subject to all limitations and penalties applicable to that section.

(i) A patient may not be required to pay any cost, or be charged any fee, for electing to receive his or her laboratory results in any manner other than by Internet posting or other electronic form.

(j) A patient or his or her physician may revoke any consent provided under this section at any time and without penalty, except to the extent that action has been taken in reliance on that consent.

123149. (a) Providers of health services, licensed pursuant to Sections 1205, 1253, 1575, and 1726, that utilize electronic recordkeeping systems only, shall comply with the additional requirements of this section. These additional requirements do not apply to patient records if hard copy versions of the patient records are retained.

(b) Any use of electronic recordkeeping to store patient records shall ensure the safety and integrity of those records at least to the extent of hard copy records. All providers set forth in subdivision (a) shall ensure the safety and integrity of all electronic media used to store patient records by employing an offsite backup storage system, an image mechanism that is able to copy signature documents, and a mechanism to ensure that once a record is input, it is unalterable.

(c) Original hard copies of patient records may be destroyed once the record has been electronically stored.

(d) The printout of the computerized version shall be considered the original as defined in Section 255 of the Evidence Code for purposes of providing copies to patients, the Division of Licensing and Certification, and for introduction into evidence in accordance with Sections 1550 and 1551 of the Evidence Code, in administrative or court proceedings.

(e) Access to electronically stored patient records shall be made available to the Division of Licensing and Certification staff promptly, upon request.

(f) This section does not exempt licensed clinics, health facilities, adult day health care centers, and home health agencies from the requirement of maintaining original copies of patient records that cannot be electronically stored.

(g) Any health care provider subject to this section, choosing to utilize an electronic recordkeeping system, shall develop and implement policies and procedures to include safeguards for confidentiality and unauthorized access to electronically stored patient health records, authentication by electronic signature keys, and systems maintenance.

(h) Nothing contained in this chapter shall affect the existing regulatory requirements for the access, use, disclosure, confidentiality, retention of record contents, and maintenance of health information in patient records by health care providers.

(i) This chapter does not prohibit any provider of health care services from maintaining or retaining patient records electronically.

123149.5. (a) It is the intent of the Legislature that all medical information transmitted during the delivery of health care via telemedicine, as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, become part of the patient's medical record maintained by the licensed health care provider.

(b) This section shall not be construed to limit or waive any of the requirements of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

# ATTACHMENT B

**DIVISION 106, PART 1, CHAPTER 1 OF THE HEALTH AND SAFETY CODE**  
**SECTION 123100-123149.5**

123100. The Legislature finds and declares that every person having ultimate responsibility for decisions respecting his or her own health care also possesses a concomitant right of access to complete information respecting his or her condition and care provided. Similarly, persons having responsibility for decisions respecting the health care of others should, in general, have access to information on the patient's condition and care. It is, therefore, the intent of the Legislature in enacting this chapter to establish procedures for providing access to health care records or summaries of those records by patients and by those persons having responsibility for decisions respecting the health care of others.

123105. As used in this chapter:

- (a) "Health care provider" means any of the following:
  - (1) A health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.
  - (2) A clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2.
  - (3) A home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2.
  - (4) A physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or pursuant to the Osteopathic Act.
  - (5) A podiatrist licensed pursuant to Article 22 (commencing with Section 2460) of Chapter 5 of Division 2 of the Business and Professions Code.
  - (6) A dentist licensed pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code.
  - (7) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.
  - (8) An optometrist licensed pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code.
  - (9) A chiropractor licensed pursuant to the Chiropractic Initiative Act.
  - (10) A marriage and family therapist licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.
  - (11) A clinical social worker licensed pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code.
  - (12) A physical therapist licensed pursuant to Chapter 5.7 (commencing with Section 2600) of Division 2 of the Business and Professions Code.
- (b) "Mental health records" means patient records, or discrete portions thereof, specifically relating to evaluation or treatment of a mental disorder. "Mental health records" includes, but is not limited to, all alcohol and drug abuse records.
- (c) "Patient" means a patient or former patient of a health care provider.
- (d) "Patient records" means records in any form or medium maintained by, or in the custody or control of, a health care provider relating to the health history, diagnosis, or condition of a patient, or relating to treatment provided or proposed to be provided to the patient. "Patient records" includes only records pertaining to the patient requesting the records or whose representative requests the records. "Patient records" does not include information given in confidence to a health care provider by a person other than another health care provider or the patient, and that material may be removed from any records prior to inspection or copying under Section 123110 or 123115. "Patient records" does not include information contained in aggregate form, such as indices, registers, or logs.



(e) "Patient's representative" or "representative" means a parent or the guardian of a minor who is a patient, or the guardian or conservator of the person of an adult patient, or the beneficiary or personal representative of a deceased patient.

(f) "Alcohol and drug abuse records" means patient records, or discrete portions thereof, specifically relating to evaluation and treatment of alcoholism or drug abuse.

123110. (a) Notwithstanding Section 5328 of the Welfare and Institutions Code, and except as provided in Sections 123115 and 123120, any adult patient of a health care provider, any minor patient authorized by law to consent to medical treatment, and any patient representative shall be entitled to inspect patient records upon presenting to the health care provider a written request for those records and upon payment of reasonable clerical costs incurred in locating and making the records available. However, a patient who is a minor shall be entitled to inspect patient records pertaining only to health care of a type for which the minor is lawfully authorized to consent. A health care provider shall permit this inspection during business hours within five working days after receipt of the written request. The inspection shall be conducted by the patient or patient's representative requesting the inspection, who may be accompanied by one other person of his or her choosing.

(b) Additionally, any patient or patient's representative shall be entitled to copies of all or any portion of the patient records that he or she has a right to inspect, upon presenting a written request to the health care provider specifying the records to be copied, together with a fee to defray the cost of copying, that shall not exceed twenty-five cents (\$0.25) per page or fifty cents (\$0.50) per page for records that are copied from microfilm and any additional reasonable clerical costs incurred in making the records available.

The health care provider shall ensure that the copies are transmitted within 15 days after receiving the written request.

(c) Copies of X-rays or tracings derived from electrocardiography, electroencephalography, or electromyography need not be provided to the patient or patient's representative under this section, if the original X-rays or tracings are transmitted to another health care provider upon written request of the patient or patient's representative and within 15 days after receipt of the request. The request shall specify the name and address of the health care provider to whom the records are to be delivered. All reasonable costs, not exceeding actual costs, incurred by a health care provider in providing copies pursuant to this subdivision may be charged to the patient or representative requesting the copies.

(d) (1) Notwithstanding any provision of this section, and except as provided in Sections 123115 and 123120, any patient or former patient or the patient's representative shall be entitled to a copy, at no charge, of the relevant portion of the patient's records, upon presenting to the provider a written request, and proof that the records are needed to support an appeal regarding eligibility for a public benefit program. These programs shall be the Medi-Cal program, social security disability insurance benefits, and Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled (SSI/SSP) benefits. For purposes of this subdivision, "relevant portion of the patient's records" means those records regarding services rendered to the patient during the time period beginning with the date of the patient's initial application for public benefits up to and including the date that a final determination is made by the public benefits program with which the patient's application is pending.

(2) Although a patient shall not be limited to a single request, the patient or patient's representative shall be entitled to no more than one copy of any relevant portion of his or her record free of charge.

(3) This subdivision shall not apply to any patient who is represented by a private attorney who is paying for the costs related to the patient's appeal, pending the outcome of that appeal.

For purposes of this subdivision, "private attorney" means any attorney not employed by a nonprofit legal services entity.

(e) If the patient's appeal regarding eligibility for a public benefit program specified in subdivision (d) is successful, the hospital or other health care provider may bill the patient, at the rates specified in subdivisions (b) and (c), for the copies of the medical records previously provided free of charge.

(f) If a patient or his or her representative requests a record pursuant to subdivision (d), the health care provider shall ensure that the copies are transmitted within 30 days after receiving the written request.

(g) This section shall not be construed to preclude a health care provider from requiring reasonable verification of identity prior to permitting inspection or copying of patient records, provided this requirement is not used oppressively or discriminatorily to frustrate or delay compliance with this section. Nothing in this chapter shall be deemed to supersede any rights that a patient or representative might otherwise have or exercise under Section 1158 of the Evidence Code or any other provision of law. Nothing in this chapter shall require a health care provider to retain records longer than required by applicable statutes or administrative regulations.

(h) This chapter shall not be construed to render a health care provider liable for the quality of his or her records or the copies provided in excess of existing law and regulations with respect to the quality of medical records. A health care provider shall not be liable to the patient or any other person for any consequences that result from disclosure of patient records as required by this chapter. A health care provider shall not discriminate against classes or categories of providers in the transmittal of X-rays or other patient records, or copies of these X-rays or records, to other providers as authorized by this section.

Every health care provider shall adopt policies and establish procedures for the uniform transmittal of X-rays and other patient records that effectively prevent the discrimination described in this subdivision. A health care provider may establish reasonable conditions, including a reasonable deposit fee, to ensure the return of original X-rays transmitted to another health care provider, provided the conditions do not discriminate on the basis of, or in a manner related to, the license of the provider to which the X-rays are transmitted.

(i) Any health care provider described in paragraphs (4) to (10), inclusive, of subdivision (a) of Section 123105 who willfully violates this chapter is guilty of unprofessional conduct. Any health care provider described in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 123105 that willfully violates this chapter is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100). The state agency, board, or commission that issued the health care provider's professional or institutional license shall consider a violation as grounds for disciplinary action with respect to the licensure, including suspension or revocation of the license or certificate.

(j) This section shall be construed as prohibiting a health care provider from withholding patient records or summaries of patient records because of an unpaid bill for health care services. Any health care provider who willfully withholds patient records or summaries of patient records because of an unpaid bill for health care services shall be subject to the sanctions specified in subdivision (i).

123111. (a) Any adult patient who inspects his or her patient records pursuant to Section 123110 shall have the right to provide to the health care provider a written addendum with respect to any item or statement in his or her records that the patient believes to be incomplete or incorrect. The addendum shall be limited to 250 words per alleged incomplete or incorrect item in the patient's record and shall clearly indicate in writing that the patient wishes the addendum to be made a part of his or her record.

(b) The health care provider shall attach the addendum to the patient's records and shall include that addendum whenever the health care provider makes a disclosure of the allegedly incomplete or incorrect portion of the patient's records to any third party.

(c) The receipt of information in a patient's addendum which contains defamatory or otherwise unlawful language, and the inclusion of this information in the patient's records, in accordance with subdivision (b), shall not, in and of itself, subject the health care provider to liability in any civil, criminal, administrative, or other proceeding.

(d) Subdivision (f) of Section 123110 and Section 123120 shall be applicable with respect to any violation of this section by a health care provider.

123115. (a) The representative of a minor shall not be entitled to inspect or obtain copies of the minor's patient records in either of the following circumstances:

(1) With respect to which the minor has a right of inspection under Section 123110.

(2) Where the health care provider determines that access to the patient records requested by the representative would have a detrimental effect on the provider's professional relationship with the minor patient or the minor's physical safety or psychological well-being. The decision of the health care provider as to whether or not a minor's records are available for inspection under this section shall not attach any liability to the provider, unless the decision is found to be in bad faith.

(b) When a health care provider determines there is a substantial risk of significant adverse or detrimental consequences to a patient in seeing or receiving a copy of mental health records requested by the patient, the provider may decline to permit inspection or provide copies of the records to the patient, subject to the following conditions:

(1) The health care provider shall make a written record, to be included with the mental health records requested, noting the date of the request and explaining the health care provider's reason for refusing to permit inspection or provide copies of the records, including a description of the specific adverse or detrimental consequences to the patient that the provider anticipates would occur if inspection or copying were permitted.

(2) The health care provider shall permit inspection by, or provide copies of the mental health records to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, or licensed clinical social worker, designated by request of the patient. Any marriage and family therapist registered intern, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, may not inspect the patient's mental health records or obtain copies thereof, except pursuant to the direction or supervision of a licensed professional specified in subdivision (f) of Section 4980.40 of the Business and Professions Code. Prior to providing copies of mental health records to a marriage and family therapist registered intern, a receipt for those records shall be signed by the supervising licensed professional. The licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, licensed clinical social worker, or marriage and family therapist registered intern to whom the records are provided for inspection or copying shall not permit inspection or copying by the patient.

(3) The health care provider shall inform the patient of the provider's refusal to permit him or her to inspect or obtain copies of the requested records, and inform the patient of the right to require the provider to permit inspection by, or provide copies to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, or licensed clinical social worker, designated by written authorization of the patient.

(4) The health care provider shall indicate in the mental health records of the patient whether the request was made under paragraph (2).

123120. Any patient or representative aggrieved by a violation of Section 123110 may, in addition to any other remedy provided by law, bring an action against the health care provider to enforce the obligations prescribed by Section 123110. Any judgment rendered in the action may, in the discretion of the court, include an award of costs and reasonable attorney fees to the prevailing party.

123125. (a) This chapter shall not require a health care provider to permit inspection or provide copies of alcohol and drug abuse records where, or in a manner, prohibited by Section 408 of the federal Drug Abuse Office and Treatment Act of 1972 (Public Law 92-255) or Section 333 of the federal Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (Public Law 91-616), or by regulations adopted pursuant to these federal laws. Alcohol and drug abuse records subject to these federal laws shall also be subject to this chapter, to the extent that these federal laws do not prohibit disclosure of the records. All other alcohol and drug abuse records shall be fully subject to this chapter.

(b) This chapter shall not require a health care provider to permit inspection or provide copies of records or portions of records where or in a manner prohibited by existing law respecting the confidentiality of information regarding communicable disease carriers.

123130. (a) A health care provider may prepare a summary of the record, according to the requirements of this section, for inspection and copying by a patient. If the health care provider chooses to prepare a summary of the record rather than allowing access to the entire record, he or she shall make the summary of the record available to the patient within 10 working days from the date of the patient's request. However, if more time is needed because the record is of extraordinary length or because the patient was discharged from a licensed health facility within the last 10 days, the health care provider shall notify the patient of this fact and the date that the summary will be completed, but in no case shall more than 30 days elapse between the request by the patient and the delivery of the summary. In preparing the summary of the record the health care provider shall not be obligated to include information that is not contained in the original record.

(b) A health care provider may confer with the patient in an attempt to clarify the patient's purpose and goal in obtaining his or her record. If as a consequence the patient requests information about only certain injuries, illnesses, or episodes, this subdivision shall not require the provider to prepare the summary required by this subdivision for other than the injuries, illnesses, or episodes so requested by the patient. The summary shall contain for each injury, illness, or episode any information included in the record relative to the following:

- (1) Chief complaint or complaints including pertinent history.
- (2) Findings from consultations and referrals to other health care providers.
- (3) Diagnosis, where determined.
- (4) Treatment plan and regimen including medications prescribed.
- (5) Progress of the treatment.
- (6) Prognosis including significant continuing problems or conditions.
- (7) Pertinent reports of diagnostic procedures and tests and all discharge summaries.
- (8) Objective findings from the most recent physical examination, such as blood pressure, weight, and actual values from routine laboratory tests.

(c) This section shall not be construed to require any medical records to be written or maintained in any manner not otherwise required by law.

(d) The summary shall contain a list of all current medications prescribed, including dosage, and any sensitivities or allergies to medications recorded by the provider.

(e) Subdivision (c) of Section 123110 shall be applicable whether or not the health care provider elects to prepare a summary of the record.

(f) The health care provider may charge no more than a reasonable fee based on actual time and cost for the preparation of the summary. The cost shall be based on a computation of the actual time spent preparing the summary for availability to the patient or the patient's representative. It is the intent of the Legislature that summaries of the records be made available at the lowest possible cost to the patient.

123135. Except as otherwise provided by law, nothing in this chapter shall be construed to grant greater access to individual patient records by any person, firm, association, organization, partnership, business trust, company, corporation, or municipal or other public corporation, or government officer or agency. Therefore, this chapter does not do any of the following:

(a) Relieve employers of the requirements of the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code).

(b) Relieve any person subject to the Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1 of the Insurance Code) from the requirements of that act.

(c) Relieve government agencies of the requirements of the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code).

123140. The Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) shall prevail over this chapter with respect to records maintained by a state agency.

123145. (a) Providers of health services that are licensed pursuant to Sections 1205, 1253, 1575 and 1726 have an obligation, if the licensee ceases operation, to preserve records for a minimum of seven years following discharge of the patient, except that the records of unemancipated minors shall be kept at least one year after the minor has reached the age of 18 years, and in any case, not less than seven years.

(b) The department or any person injured as a result of the licensee's abandonment of health records may bring an action in a proper court for the amount of damage suffered as a result thereof.

In the event that the licensee is a corporation or partnership that is dissolved, the person injured may take action against that corporation's or partnership's principal officers of record at the time of dissolution.

(c) Abandoned means violating subdivision (a) and leaving patients treated by the licensee without access to medical information to which they are entitled pursuant to Section 123110.

123147. (a) Except as provided in subdivision (b), all health facilities, as defined in Section 1250, and all primary care clinics that are either licensed under Section 1204 or exempt from licensure under Section 1206, shall include a patient's principal spoken language on the patient's health records.

(b) Any long-term health care facility, as defined in Section 1418, that already completes the minimum data set form as specified in Section 14110.15 of the Welfare and Institutions Code, including documentation of a patient's principal spoken language, shall be deemed to be in compliance with subdivision (a).

123148. (a) Notwithstanding any other provision of law, a health care professional at whose request a test is performed shall provide or arrange for the provision of the results of a clinical laboratory test to the patient who is the subject of the test if so requested by the patient, in oral or written form. The results shall be conveyed in plain language and in oral or written form, except the results may be conveyed in electronic form if requested by the patient and if deemed most appropriate by the health care professional who requested the test.

(b) (1) Consent of the patient to receive his or her laboratory results by Internet posting or other electronic means shall be obtained in a manner consistent with the requirements of Section 56.10 or 56.11 of the Civil Code. In the event that a health care professional arranges for the provision of test results by Internet posting or other electronic manner, the results shall be delivered to a patient in a reasonable time period, but only after the results have been reviewed by the health care professional. Access to clinical laboratory test results shall be restricted by the use of a secure personal identification number when the results are delivered to a patient by Internet posting or other electronic manner.

(2) Nothing in paragraph (1) shall prohibit direct communication by Internet posting or the use of other electronic means to convey clinical laboratory test results by a treating health care professional who ordered the test for his or her patient or by a health care professional acting on behalf of, or with the authorization of, the treating health care professional who ordered the test.

(c) When a patient requests to receive his or her laboratory test results by Internet posting, the health care professional shall advise the patient of any charges that may be assessed directly to the patient or insurer for the service and that the patient may call the health care professional for a more detailed explanation of the laboratory test results when delivered.

(d) The electronic provision of test results under this section shall be in accordance with any applicable federal law governing privacy and security of electronic personal health records. However, any state statute, if enacted, that governs privacy and security of electronic personal health records, shall apply to test results under this section and shall prevail over federal law if federal law permits.

(e) The test results to be reported to the patient pursuant to this section shall be recorded in the patient's medical record, and shall be reported to the patient within a reasonable time period after the test results are received at the offices of the health care professional who requested the test.

(f) Notwithstanding subdivisions (a) and (b), none of the following clinical laboratory test results and any other related results shall be conveyed to a patient by Internet posting or other electronic means:

- (1) HIV antibody test.
- (2) Presence of antigens indicating a hepatitis infection.
- (3) Abusing the use of drugs.
- (4) Test results related to routinely processed tissues, including skin biopsies, Pap smear tests, products of conception, and bone marrow aspirations for morphological evaluation, if they reveal a malignancy.

(g) Patient identifiable test results and health information that have been provided under this section shall not be used for any commercial purpose without the consent of the patient, obtained in a manner consistent with the requirements of Section 56.11 of the Civil Code.

(h) Any third party to whom laboratory test results are disclosed pursuant to this section shall be deemed a provider of administrative services, as that term is used in paragraph (3) of subdivision (c) of Section 56.10 of the Civil Code, and shall be subject to all limitations and penalties applicable to that section.

(i) A patient may not be required to pay any cost, or be charged any fee, for electing to receive his or her laboratory results in any manner other than by Internet posting or other electronic form.

(j) A patient or his or her physician may revoke any consent provided under this section at any time and without penalty, except to the extent that action has been taken in reliance on that consent.

123149. (a) Providers of health services, licensed pursuant to Sections 1205, 1253, 1575, and 1726, that utilize electronic recordkeeping systems only, shall comply with the additional requirements of this section. These additional requirements do not apply to patient records if hard copy versions of the patient records are retained.

(b) Any use of electronic recordkeeping to store patient records shall ensure the safety and integrity of those records at least to the extent of hard copy records. All providers set forth in subdivision (a) shall ensure the safety and integrity of all electronic media used to store patient records by employing an offsite backup storage system, an image mechanism that is able to copy signature documents, and a mechanism to ensure that once a record is input, it is unalterable.

(c) Original hard copies of patient records may be destroyed once the record has been electronically stored.

(d) The printout of the computerized version shall be considered the original as defined in Section 255 of the Evidence Code for purposes of providing copies to patients, the Division of Licensing and Certification, and for introduction into evidence in accordance with Sections 1550 and 1551 of the Evidence Code, in administrative or court proceedings.

(e) Access to electronically stored patient records shall be made available to the Division of Licensing and Certification staff promptly, upon request.

(f) This section does not exempt licensed clinics, health facilities, adult day health care centers, and home health agencies from the requirement of maintaining original copies of patient records that cannot be electronically stored.

(g) Any health care provider subject to this section, choosing to utilize an electronic recordkeeping system, shall develop and implement policies and procedures to include safeguards for confidentiality and unauthorized access to electronically stored patient health records, authentication by electronic signature keys, and systems maintenance.

(h) Nothing contained in this chapter shall affect the existing regulatory requirements for the access, use, disclosure, confidentiality, retention of record contents, and maintenance of health information in patient records by health care providers.

(i) This chapter does not prohibit any provider of health care services from maintaining or retaining patient records electronically.

123149.5. (a) It is the intent of the Legislature that all medical information transmitted during the delivery of health care via telemedicine, as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, become part of the patient's medical record maintained by the licensed health care provider.

(b) This section shall not be construed to limit or waive any of the requirements of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

# ATTACHMENT C



BUSINESS AND PROFESSIONS CODE SECTION 2290.5  
TELEMEDICINE

2290.5. (a) (1) For the purposes of this section, "telemedicine" means the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications. Neither a telephone conversation nor an electronic mail message between a health care practitioner and patient constitutes "telemedicine" for purposes of this section.

(2) For purposes of this section, "interactive" means an audio, video, or data communication involving a real time (synchronous) or near real time (asynchronous) two-way transfer of medical data and information.

(b) For the purposes of this section, "health care practitioner" has the same meaning as "licentiate" as defined in paragraph (2) of subdivision (a) of Section 805.

(c) Prior to the delivery of health care via telemedicine, the health care practitioner who has ultimate authority over the care or primary diagnosis of the patient shall obtain verbal and written informed consent from the patient or the patient's legal representative. The informed consent procedure shall ensure that at least all of the following information is given to the patient or the patient's legal representative verbally and in writing:

(1) The patient or the patient's legal representative retains the option to withhold or withdraw consent at any time without affecting the right to future care or treatment nor risking the loss or withdrawal of any program benefits to which the patient or the patient's legal representative would otherwise be entitled.

(2) A description of the potential risks, consequences, and benefits of telemedicine.

(3) All existing confidentiality protections apply.

(4) All existing laws regarding patient access to medical information and copies of medical records apply.

(5) Dissemination of any patient identifiable images or information from the telemedicine interaction to researchers or other entities shall not occur without the consent of the patient.

(d) A patient or the patient's legal representative shall sign a written statement prior to the delivery of health care via telemedicine, indicating that the patient or the patient's legal representative understands the written information provided pursuant to subdivision (a), and that this information has been discussed with the health care practitioner, or his or her designee.

(e) The written consent statement signed by the patient or the patient's legal representative shall become part of the patient's medical record.

(f) The failure of a health care practitioner to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(g) All existing laws regarding surrogate decisionmaking shall apply. For purposes of this section, "surrogate decisionmaking" means any decision made in the practice of medicine by a parent or legal representative for a minor or an incapacitated or incompetent individual.

(h) Except as provided in paragraph (3) of subdivision (c), this section shall not apply when the patient is not directly involved in the telemedicine interaction, for example when one health care practitioner consults with another health care practitioner.

(i) This section shall not apply in an emergency situation in which a patient is unable to give informed consent and the representative of that patient is not available in a timely manner.

(j) This section shall not apply to a patient under the jurisdiction of the Department of Corrections or any other correctional facility.

(k) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

**State of California  
Board of Behavioral Sciences**

**M e m o r a n d u m**

**To:** Consumer Protection Committee

**Date:** June 12, 2006

**From:** Mona C. Maggio  
Assistant Executive Officer

**Telephone:** (916) 574-7841

**Subject: Agenda Item XI - Discuss Future Committee Meeting Agenda Items**

---

The Consumer Protection Committee will meet on September 20, 2006 in Southern California, location to be announced.

At this time the Committee and audience members may suggest future agenda items for consideration.